

GETTING OUT: PAROLE, POLITICS, AND RISK ASSESSMENT BEFORE THE  
CARCERAL STATE, 1895-1939

by  
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## Abstract

“Getting Out: Parole, Politics, and Risk Assessment Before the Carceral State” uses Illinois as a case study to explore the extension of carceral power into free society with the passage of parole and indeterminate sentencing laws. From its beginnings, the diffuse and immediately controversial institution of parole forced prison officials, social reformers, and former prisoners to fight for their interests both within the criminal justice system and outside of official political channels. In the Progressive Era, the state relied on private individuals, businesses, and voluntary organizations to conduct much of the actual work involved in maintaining a supervisory network in cities and towns across Illinois. The parole board determined release dates for prisoners based largely on its members’ ‘hunches’—often swayed by classist and racist assumptions or an inmate’s political connections. But as the twentieth century progressed, a new actuarial prediction process allowed the board to justify its decisions scientifically. For all of the justice system’s effort to pivot toward reliance on empirical evidence, however, the parole system still hinged on older assumptions about who was worthy and who was not. To tell this story, the project uses a synthetic approach that integrates labor history, urban history, and the history of state and local politics to demonstrate how actuarial calculations of risk got wedded to notions of race, class, and the provision of social services. The dissertation advances our understanding of how inequality in the American criminal justice system is rooted not only in older exploitative practices stemming from slavery and the workhouse, but also in the ways in which racism, classism, and sexism were bound up with prison reform and scientific management.

Readers: N.D.B. Connolly, Ronald G. Walters, Angus Burgin, Jeremy Greene, P.J. Brendese

*For **Rita Kent Calumet**, my Nama.*  
*And for **Kevin Wade Shahan**, who would have read every word.*

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## INTRODUCTION

Joseph Schuster took his last breath in the electric chair shortly after midnight on April 16, 1937.<sup>1</sup> It is unclear who was responsible for pulling the lever that carried the lethal current, taking Schuster's life as payment for the murder of policeman, husband, and father Arthur J. Sullivan. Four guards were assigned to pull four switches at exactly the same time on the large panel near the execution chamber in the Cook County Jail, but only one of them carried out the state-sanctioned killing by sending the electric current to the chair.<sup>2</sup> Following Schuster's death at 12:11 AM, the four switches were pulled twice more for the currents to claim Stanley Murawski and Frank "Doc" Whyte. Murawski and Whyte were sentenced to death for the murder of policeman Michael Toth.<sup>3</sup> In a period of twenty-nine minutes, Schuster, Murawski, and Whyte were pronounced dead before 147 witnesses. This represented but a fraction of the 5,000 people who applied to watch the executions.<sup>4</sup> In one of its last printed outcries against Joseph Schuster's offense, the *Chicago Tribune* described the three deaths and their significance with one line: "Thus, with the flick of an electric switch, ended the criminal careers of three beneficiaries of the Illinois parole system."<sup>5</sup>

As this statement clarifies, Schuster, Murawski, and Whyte had something else in common besides the crimes they were put to death for committing. All three were out on parole when they shot and killed Chicago policemen. By the 1930s, state parole systems developed earlier in the 20<sup>th</sup> century suffered criticism and condemnation. In 1937, the year Schuster was

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<sup>1</sup> "Three Police Killers Put to Death: Crime Career of Parolees Ends in Chair," *Chicago Daily Tribune*, April 16, 1937, 1.

<sup>2</sup> Associated Press, "Three Convicts Meet Death in 'Humane' Chair: Killers of Policemen Die in Chicago Jail for Double Crime," *The Washington Post*, April 16, 1937, 5.

<sup>3</sup> "Police Slaying Confessed by Two Ex-Convicts: One Desperado Seized Through Clever Ruse," *Chicago Daily Tribune*, December 20, 1936, 13.

<sup>4</sup> "Three Police Killers Put to Death," *Chicago Daily Tribune*, 1.

<sup>5</sup> *Ibid.*

sentenced to die in the electric chair, Federal Bureau of Investigation Director J. Edgar Hoover called the parole system “one of the greatest disgraces America has ever known.”<sup>6</sup> In making this statement, Hoover echoed the opinion advanced by most major newspapers and by many Americans who were “convinced that parole represented nothing more than coddling of the criminal.”<sup>7</sup> The public revulsion inspired by parole and the men these policies released from prison was perhaps the one of the reasons why many of the 5,000 people who applied for tickets to the execution were so eager to watch the state kill Joseph Schuster.

While the slaying of any patrolman would have attracted newspaper attention, Schuster rode a wave of headlines to the death house. His case did contain several sensational elements. Arthur Sullivan was a married father of four young children, and photographs of his grieving family appeared often in publications pertaining to his murder.<sup>8</sup> Even former prisoners hated him, perhaps for different reasons. After Schuster’s capture, a burglary suspect and fellow parolee handcuffed to Schuster in the police “showup” room easily recognized him: “You’re the guy that killed the copper, huh? Yes, and you’re the guy that turned ‘the heat’ on all us paroled convicts.”<sup>9</sup> Schuster had also inadvertently turned the heat on himself. He stashed the gun he used to kill Sullivan inside the oven in his apartment, where the flat’s subsequent tenant inadvertently set it off as she heated the stove.<sup>10</sup> Also, Schuster had evidently robbed his own

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<sup>6</sup> J. Edgar Hoover, “The Truth About Parole: A New Article in the Series ‘For a Crime-Free America,’” *Los Angeles Times*, October 3, 1937, J2.

<sup>7</sup> David J. Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Boston: Little, Brown and Company, 1980), 160.

<sup>8</sup> “Seize Paroled Police Killer: Ex-Convict Is Caught in Trap and Confesses,” *Chicago Daily Tribune*, January 16, 1937, 1. Also see “Parolee, Seized as Bandit, Hangs Himself in Jail: Push Ex-Convict Drive; Vote to Indict Killer,” *Chicago Daily Tribune*, January 21, 1937, 2; “Three Police Killers Put to Death: Crime Career of Parolees Ends in Chair,” *Chicago Daily Tribune*, April 16, 1937.

<sup>9</sup> “Paroled Police Slayer Cursed,” *Chicago Daily Tribune*, 4.

<sup>10</sup> “Explosions Lead to Police Death Gun—In a Stove: Heat Fires Shells; Parolee Identifies Weapon,” January 27, 1937, 11.

sister, who nevertheless continued to defend him during his trial.<sup>11</sup> All of these elements combined made for great newspaper sales. But the consistent coverage of Schuster's crime, trial, and sentencing was perhaps due instead to timing.

Police apprehended the parolee for Arthur Sullivan's murder in the midst of a nationwide crime war, and Joseph Schuster's story raises themes integral to our understanding of it. Parole was central to the crisis surrounding this first war on crime and to the expansion of carceral bureaucracy that came with it. Lurid headlines alerted the public to the violent, improperly supervised parolees roaming the state, crying out against the parole board that had released them. Vulnerable to bad publicity in the 1920s and 1930s and armed with an actuarial tool that rated the risk of paroling each incarcerated man, the board soon came to use this new technology to justify keeping prisoners incarcerated rather than releasing them on parole. But how did parole and the indeterminate sentence, once crucial components of progressive reforms focused on rehabilitating lawbreakers and reintegrating them into free society, come to fuel carceral growth through intensive risk mitigation? And what did this mean for the men caught up in the criminal justice system? "Getting Out" traces this story, from the early expansion of carceral surveillance to the evolution of risk management strategies in the lead up to the growth of carceral bureaucracy during the interwar period.

### **Historiography and Interventions**

The historical subfield focused on the rise of the carceral state and mass incarceration in the second half of the twentieth century is thriving. The urgency behind this literature is clear—one has only to look to the devastating effects of the wars on drugs and crime in communities of color, the incarceration of undocumented children at the border, and the mass warehousing of

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<sup>11</sup> "Paroled Police Slayer Cursed by Prison Mate: Seek Indictment Today for Vicious Killer," *Chicago Daily Tribune*, January 20, 1937, 4.

African American men, women, and children in this century to understand why. The vast funds and military equipment allocated to the nation's police forces and the deep divide between rich and poor visible within the American court system drives the caging of many millions within its borders. Some of the most important work that has emerged from this subfield in the past decade explores the causes and impact of the expansion of the carceral state, following historian Heather Ann Thompson's call to action in her 2010 essay "Why Mass Incarceration Matters."<sup>12</sup> Historians seek to understand the meteoric rise in incarceration rates and the ways in which prisons, police, and the courts have, in Elizabeth Hinton's words, "functioned as a central engine of American inequality."<sup>13</sup> Scholarship within the subfield has exposed the bipartisan commitment to law-and-order politics and uncovered the resultant extensive and broad-reaching punitive policies, federal investment in local law enforcement, and colossal prison-building project that began in the 1960s and continues to shape the lives of countless low-income Americans.<sup>14</sup> Much of this work also adds to our understanding of the severe consequences of

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<sup>12</sup> Heather Ann Thompson, "Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History," *Journal of American History* 97, no. 3 (December, 2010), 703-734.

<sup>13</sup> Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016), 1.

<sup>14</sup> Most of the work on the contributions of Democratic and Republican politicians to the expansion of the carceral state developed in response to Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2012, 2020). Alexander's groundbreaking bestseller speaks powerfully to the experience of people impacted by mass incarceration, has inspired "conscious-raising activism" such as The Marshall Project, and presents the history of the War on Drugs and rise of human caging in accessible narrative and statistical form. Historians of the carceral state argue for a lengthening of Alexander's causal narrative, contending that explaining the rise of mass incarceration requires consideration of the period before Reagan's War on Drugs and looking beyond law, policy, and practice related to narcotics enforcement. On the bipartisan commitment to law-and-order rhetoric and policymaking, see Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014); Hinton, *From the War on Poverty to the War on Crime*; Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton: Princeton University Press, 2017); and, though written before *The New Jim Crow*, Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2009).

carceral state expansion for black Americans and Latinos, as the racial disparity in arrest rates and within prisons, jails, and immigrant detention centers attests.<sup>15</sup>

As Dan Berger points out, much of the recent work in carceral history focuses on prisons and policing in two distinct moments in the past: the post-1945 moment of carceral state expansion and the post-bellum period of convict leasing in the American South.<sup>16</sup> Perhaps the most compelling recent trend in the history of convict leasing illuminates the once-overlooked histories of African American women within the convict leasing system, offering historians new ways to think through “histories of gendered violence and black female resistance.”<sup>17</sup> Other significant works expose the instrumental role of convict labor in the construction of the modern South, both in terms of physical infrastructure and the logics of race that operated in the Jim

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<sup>15</sup> Both Elizabeth Hinton and Julilly Kohler-Hausmann also link new penal and law enforcement policy to welfare programming in urban centers, leading to greater surveillance and policing of already marginalized African Americans and Latinos. Hinton, *From the War on Poverty to the War on Crime* and Kohler-Hausmann, *Getting Tough*. Loïc Waquant also explores the ways in which the carceral state stepped in as the welfare state shrank in the postwar period. See Waquant, “Class, race, and hyperincarceration in revanchist America,” *Daedalus* 139, no. 3 (Summer 2010), 74-90. For a sampling of the many other studies focused on historicizing racial disparities in incarceration, see Alexander, *The New Jim Crow*; Heather Ann Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy* (New York: Pantheon Books, 2016); Heather Schoenfeld, *Building the Prison State: Race and the Politics of Mass Incarceration* (Chicago: University of Chicago Press, 2018); Robert Perkinson, *Texas Tough: The Rise of America's Prison Empire* (New York: Picador, 2010); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Supplies, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007); and Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006). On the incarceration and deportation of immigrants, especially Latinx immigrants, see Torrie Hester, “Deportability and the Carceral State,” *Journal of American History* 102, no. 1 (June, 2014), 141-151; Torrie Hester, *Deportation: The Origins of U.S. Policy* (Philadelphia: University of Pennsylvania Press, 2017); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004); and Kelly Lytle Hernández, *Migra!: A History of the U.S. Border Patrol* (Berkeley: University of California Press, 2010).

<sup>16</sup> Dan Berger, “Finding and Defining the Carceral State,” *Reviews in American History* 47, no. 2 (June 2019), 281.

<sup>17</sup> Quote from Talitha LeFlouria, “‘Under the Sting of the Lash’: Gendered Violence, Terror, and Resistance in the South’s Convict Camps,” *The Journal of African American History* 100, no. 3 (Summer, 2015): 366-384. Early works in this vein include Mary Ellen Curtin, *Black Prisoners and their World, Alabama, 1865-1900* (Charlottesville: University Press of Virginia, 2000), chapter 7 and Mary Ellen Curtin, “The ‘Human World’ of Black Women in Alabama Prisons, 1870-1900,” in *Hidden Histories of Women in the New South*, ed. Virginia Bernhard, Betty Brandon, Elizabeth Fox Genovese, Theda Purdue, and Elizabeth Hayes Turner (Columbia: University of Missouri Press, 1994). More recent works include: Talitha L. LeFlouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: University of North Carolina Press, 2015) and Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (Chapel Hill, University of North Carolina Press, 2016).

Crow era.<sup>18</sup> But before the publication of Douglas Blackmon's *Slavery by Another Name* and Michelle Alexander's *The New Jim Crow* attracted public attention to the Reconstruction era South and the Reagan era War on Drugs—before Thompson's essay set the agenda for the subfield—historical scholarship on the criminal justice system had another temporal focus.

The Progressive era, where this dissertation begins, marked a new age of prison and court-reform movements in non-Southern states, as a generation of social reformers worked to transform the prison into an institution that could truly change its wayward inhabitants. Forty years ago, David J. Rothman turned a critical eye to these “new penologists.” He argues in *Conscience and Convenience* that well-intended Progressive efforts to “cure crime, delinquency, and insanity” with individualized treatment both expanded the authority of the state and empowered officials to curtail the liberty of the “deviant” classes in the name of the “welfare of the individual and the security of society.”<sup>19</sup> Since the publication of this work in 1980, scholars have presented research that takes up the thread of conflict between “conscience” and “convenience”—the gap between reform ideals and reality.<sup>20</sup> This dissertation speaks to more

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<sup>18</sup> Sarah Haley, *No Mercy Here*. Also see Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Matthew Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia: University of South Carolina Press, 1996); Douglas Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Doubleday, 2008); and David M. Oshinsky, *“Worse than Slavery”: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Simon & Schuster, 1997).

<sup>19</sup> David J. Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Boston: Little, Brown, 1980), 5, 6. This work was a response to earlier scholars, who portrayed the juvenile court and other institutions as an embodiment of progressive ideals. Rothman contends that the asylum, prison, and juvenile justice reforms that proliferated across the northern states were a complete nightmare resulting only in new mechanisms of state control that had disastrous effects on institutional populations. His book proved both deeply flawed and provocative—and a cohort of historians in the 1990s stepped in to challenge and build on his argument.

<sup>20</sup> Newer work, however, takes a more nuanced stance on progressive criminal justice reform, leaving Rothman's generalizations behind. As Gerald N. Grob's review of *Conscience and Convenience* points out, Rothman glosses over or distorts historical context that does not fit within his predetermined characterization of the asylum, the prison, and the reformatory. Moreover, Rothman assumes that the clients and inmates of these institutions are completely passive—their voices, perspectives, and actions are almost entirely absent from his narrative. He is also, as Nicole Hahn Rafter indicates, totally oblivious to gender. A sampling of historians who explicitly acknowledged and built upon Rothman's work on the gap between intent and execution, while cognizant of the many omissions and flaws in *Conscience and Convenience* include Alexander Pisciotto, *Benevolent Repression: Social Control and the American Reformatory-Prison Movement* (New York: NYU Press, 1994); Nicole Hahn Rafter, *Partial Justice:*

recent scholarship focused on criminal justice in the Progressive era. Historians mind the gap identified by Rothman while remaining attentive to gender, race, and class as well as the public-private partnerships that characterized local and state governance.<sup>21</sup>

My research on the Progressive era workings of the parole system in Illinois contributes to a body of literature that explores the public-private partnerships driving state surveillance and the development of the criminal justice system during the first part of the twentieth century. Scholars including Jessica R. Pilely and Jennifer Fronc show how white, middling-class reformers working with voluntary organizations helped monitor working-class city communities and persons the state marked as deviant.<sup>22</sup> These social reformers believed that the data they gathered during observations of institutions and social groups would help them find solutions for poverty, criminality, juvenile delinquency, and other social ills. While many urban voluntary and charitable organizations operated outside of government at their founding, they soon partnered with the state to enforce gendered, racialized, and class boundaries in urban areas. Public-private

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*Women in State Prisons, 1800-1935* (Boston: Northeastern University Press, 1985); Nicole Hahn Rafter, "Gender, Prisons, and Prison History," *Social Science History* 9, no. 3 (Summer 1985), 233-247; Nancy Tomes, *The Art of Asylum-Keeping: Thomas Story Kirkbride and the Origins of American Psychiatry* (Philadelphia: University of Pennsylvania Press, 1994); and David Wolcott, "'The Cop Will Get You': The Police and Discretionary Juvenile Justice, 1890-1940," *Journal of Social History* 35, no. 2 (Winter, 2001), 349-371, among others too numerous to count. Grob, of course, had his reasons to proffer a scathing review of *Conscience and Convenience*. He viewed Progressive-era mental patients as the beneficiaries of humanitarian reforms within asylums. Gerald N. Grob, "Distorting History: *Conscience and Convenience* by David J. Rothman," *Commentary*, July 1980, <https://www.commentarymagazine.com/articles/gerald-grob/conscience-and-convenience-by-david-j-rothman/>.

<sup>21</sup> Literature in this vein with a focus on Chicago and Illinois includes L. Mara Dodge, *"Whores and Thieves of the Worst Kind": A Study of Women, Crime, and Prisons, 1835-2000* (DeKalb: Northern Illinois University Press, 2002); Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (Cambridge: Cambridge University Press, 2003); Tera Eva Agyepong, *The Criminalization of Black Children: Race, Gender, and Delinquency in Chicago's Juvenile Justice System, 1899-1945* (Chapel Hill: The University of North Carolina Press, 2018); Victoria Getis, *The Juvenile Court and the Progressives* (Urbana: University of Illinois Press, 2000); Michael A. Rembis, *Defining Deviance: Sex, Science, and Delinquent Girls, 1890-1960* (Urbana: University of Illinois Press, 2011); David S. Tanenhaus, *Juvenile Justice in the Making* (New York: Oxford University Press, 2004); and Cynthia M. Blair, *I've Got to Make My Livin': Black Women's Sex Work in Turn-of-the Century Chicago* (Chicago: University of Chicago Press, 2010).

<sup>22</sup> Jessica R. Pilely, *Policing Sexuality: The Mann Act and the Making of the FBI* (Cambridge: Harvard University Press, 2014) and Jennifer Fronc, *New York Undercover: Private Surveillance in the Progressive Era* (Chicago: University of Chicago Press, 2009).

partnerships like these shaped the early parole system in Illinois. Illinois passed parole and indeterminate sentencing laws long before state funding and bureaucratic expansion provided the infrastructure necessary for parole supervision.<sup>23</sup> Still, the parole system emerged thanks to constantly negotiated relationships between penal officials, private individuals, businesses, and voluntary organizations. Though Progressive era public-private partnerships like this one enabled state and local governments to exercise power over the poor and marginalized, government interests could not always control how social reformers used state-sanctioned authority.<sup>24</sup> The individual ways employer-supervisors and representatives of voluntary organizations interpreted the Illinois parole agreement—the informal systems of assessment they developed to evaluate the paroled men and women in their charge—shaped how parole in Illinois worked, and didn't. I argue that although parole laws represented a nod to progressive penology in Illinois, the system's practical reliance on social reformers and business interests wove older class and gender ideals into this new approach to release and reentry.

Tugging at the thread of state partnerships with businesses, voluntary organizations, and academia helps scholars understand the operation of power in carceral institutions in the first half of the twentieth century as well as in our own moment. Most historians who examine the linkages between the prison and the private sector in the early twentieth century study convict

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<sup>23</sup> Historians researching parole in other states have also acknowledged the importance of voluntary organizations to early parole systems. Carolyn Strange's work on the Prison Association of New York's critical role in the formation of that state's discretionary justice policies is a good example of this. Carolyn Strange, *Discretionary Justice: Pardon and Parole in New York From the Revolution to the Depression* (New York: NYU Press, 2016), especially chap. 6. Also see Cheryl D. Hicks, *Talk with You Like a Woman: African American Women, Justice, and Reform in New York, 1890-1935* (Chapel Hill: University of North Carolina Press, 2010), especially chaps. 8 and 9 and Ethan Blue, *Doing Time in the Depression: Everyday Life in Texas and California Prisons* (New York: NYU Press, 2012).

<sup>24</sup> See especially Carol Nackenoff and Kathleen S. Sullivan, "The House that Julia (and Friends) Built: Networking Chicago's Juvenile Court," in *Statebuilding from the Margins: Between Reconstruction and the New Deal* (Philadelphia: University of Pennsylvania Press, 2014), 171-202.



labor—through the Southern convict lease and Northern contract labor systems.<sup>25</sup> But exploring other partnerships at the state level, some of which were intertwined with progressive prison reform, shows how governments could enhance policing power and penal control both within and outside of prison walls before the New Deal-era buildup of carceral bureaucracy. These relationships blossomed in many states during the perceived crime wave of the 1920s. During these years, the American public lost faith in legal institutions following popular fears of mounting robbery and homicide rates, shocking exposés of corruption and inefficiency, and changing ideas about the role of government in the interwar period.<sup>26</sup> In response, state and municipal governments often took what historian Claire Bond Potter calls “the commission route” to investigate societal issues and offer potential solutions. Investigative commissions were generally appointed when “the government’s authority was under attack” and were comprised of persons publicly considered “citizens of the utmost integrity.”<sup>27</sup>

Illinois used this strategy in the wake of the 1926 parole mill scandal. Governor Lennington (Len) Small and several of his top parole and penal administrators were suspected of selling early releases to well-connected and affluent prisoners. Discovery of Small’s corruption

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<sup>25</sup> While many states abolished contract labor by 1911, Maryland maintained a contract labor system well into the 1930s. The convict lease, despite reforms that professed to replace the system with chain gang labor for state use, continued in many areas of the south until the 1930s. As Henry Kamerling argues in his comparative study of South Carolina and Illinois, which focuses on the lived experience of inmates, systems of punishment and profit in the North and South were not fundamentally different in the post-bellum period and the Gilded Age. For studies of the convict lease system, see the works cited in footnote 6 of this introduction. For work on contract labor, see Henry Kamerling, *Capital and Convict: Race, Region, and Punishment in Post-Civil War America* (Charlottesville: University of Virginia Press, 2017) and Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008), especially chaps. 2 and 3. For a description of the day-to-day workings of a contract labor system in New York, see Timothy Gilfoyle, *A Pickpocket’s Tale: The Underworld of Nineteenth-Century New York* (New York: W.W. Norton & Co., 2006), 44-49.

<sup>26</sup> Jeffrey S. Adler, “Less Crime, More Punishment: Violence, Race, and Criminal Justice in Early Twentieth Century America,” *Journal of American History* 102, no. 1 (June, 2015), 37-38. Also see Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick: Rutgers University Press, 1998).

<sup>27</sup> Potter, *War on Crime*, 25. Potter cites several state-level commissions appointed to study crime waves as well as the National Commission on Law Observance and Enforcement (Wickersham Commission), appointed by President Herbert Hoover in 1929.

leveled a blow to public trust in the parole board and to the institution of parole itself. To salvage the system, the new Chairman of the Parole Board appointed three university professors to a Committee on the Workings of the Indeterminate-Sentence Law and of Parole in Illinois. Though the state delayed the adoption of many of the Committee's suggested reforms until the 1930s, the Committee's 1928 report brokered partnerships between academic sociologists and prison bureaucrats, ushering in a new age of classification and reliance on the social and mind sciences within Illinois prisons.<sup>28</sup>

This development took place during the height of the country's first war on crime, which ran from the mid-1920s to the mid-1930s.<sup>29</sup> Historians argue that this crime war, much like the War on Crime and War on Drugs to come, provided state and local policymakers with a reason to pass harsher laws, expand prosecutorial authority, and partner with federal agencies to beef up local law enforcement.<sup>30</sup> This first crime war also witnessed legislators playing on public fears of

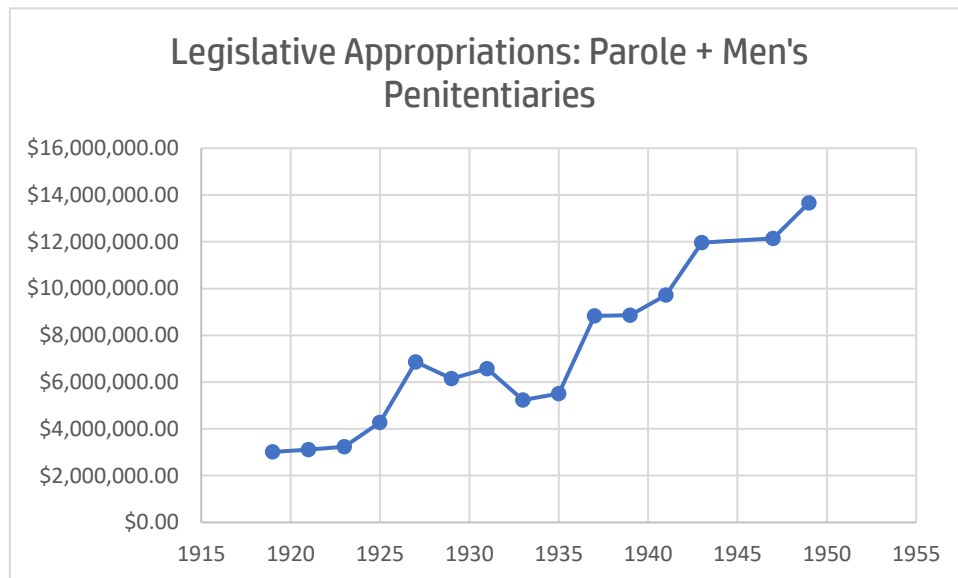
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<sup>28</sup> Similar developments occurred within Chicago's Municipal Court during the Progressive era. Willrich, *City of Courts*.

<sup>29</sup> Though many historians have noted the centrality of crime and punishment to political discourse, the changing role of the federal government in local law enforcement, and the growing power of police during the 1920s and 1930s, the greatest influence on my thinking about this first twentieth century war on crime goes to Jeffrey S. Adler. Adler argues that the war on crime of the interwar period foreshadowed late twentieth century developments, including a "surge in imprisonment," rising "racial disparities in punishment," and a spike in capital punishment even as rates of violent crime dropped. Adler, "Less Crime, More Punishment," 46. Prohibition, of course, was a major force driving federal partnerships with local law enforcement agencies.

<sup>30</sup> Much of the historical literature focuses on the federal government's role in this first war on crime. See Gottschalk, *The Prison and the Gallows*, especially chap. 3; Potter, *War on Crime*; Michael Willrich, "Criminal Justice in the United States," in *The Cambridge History of Law in America*, vol. III: *The Twentieth Century and After (1920)*, ed. Michael Grossberg and Christopher Tomlins (New York: Cambridge University Press, 2008), especially 199-211; Rebecca McLennan, "Punishment's Square Deal: Prisoner's and Their Keepers in 1920s New York," *Journal of Urban History* 29, no. 5 (July 2003), 597-619; Lisa McGirr, *The War on Alcohol: Prohibition and the Rise of the American State* (New York: W.W. Norton, 2016); Simon Balto, *Occupied Territory: Policing Black Chicago from Red Summer to Black Power* (Chapel Hill: University of North Carolina Press, 2019); Kenneth O'Reilly, "A New Deal for the FBI: The Roosevelt Administration, Crime Control, and National Security," *Journal of American History* 69, no. 3 (December 1982), 638-658; Carolyn Strange, *Discretionary Justice*; Ethan Blue, *Doing Time in the Depression*, introduction; Janis Appier, "'We're Blocking Youth's Path to Crime': The Los Angeles Coordinating Councils During the Great Depression," *Journal of Urban History* 31, no. 2 (January 2005), 190-218; and Carl Suddler, *Presumed Criminal: Black Youth and the Justice System in Postwar New York* (New York: NYU Press, 2019).

violence and property crime, working to “shore up a shaky racial hierarchy.”<sup>31</sup> Prison populations skyrocketed. The U.S. incarceration rate grew 67% over the fourteen-year period



*Figure 1 This chart shows the biennial legislative appropriations for the Illinois parole board and, beginning in 1927, funds earmarked for the supervision of parolees. Sources for the compilation of this chart and Figure 2 are listed in the footnotes.*

from 1926 to 1940 and the proportion of African American prisoners increased by one third.

States embarked on prison-building projects to accommodate their new wards, and the number of federal and state corrections facilities almost doubled from 1923 to 1933—though the rate of prison-building would slow dramatically as the Great Depression wore on.<sup>32</sup> Illinois was no exception to these patterns. Funding for carceral institutions increased sharply during the early and mid-1920s as the state struggled to combat rising robbery and homicide rates, and expenditures only grew even as crime rates dropped later in the decade.<sup>33</sup> Illinois state and local

<sup>31</sup> Adler, “Less Crime, More Punishment,” 46-7. Racial disparities in incarceration rose during the interwar period.

<sup>32</sup> Institutional population statistics can be found in Adler, “Less Crime, More Punishment,” 44. Statistics on the number of federal and state corrections facilities can be found in Margaret Werner Cahalan, “Table 3-35, Number of Federal and State Institutions Reported by Census Bureau and Justice Department, Selected Years: 1880-1982/3,” *Historical Corrections Statistics in the United States, 1850-1984* (Rockville: Westat Inc., 1986), 69. In 1923, there were three federal prisons and 61 state prisons. By 1933, there were 16 federal prisons and 101 state prisons. Illinois built three new facilities between 1920 and 1930: Vandalia State Farm opened in 1921, Stateville in 1925, and the Illinois State Penitentiary for Women at Dwight began operations in 1930.

<sup>33</sup> While Figures 1 and 2 focus on corrections and the parole system, the Chicago Police Department (CPD) also expanded during the period following the Red Summer of 1919. In 1922, the Chicago City Council voted to allot an

government spending on law enforcement and corrections allowed for the expansion of institutional bureaucracies, including a newly robust parole system with over a million dollars in

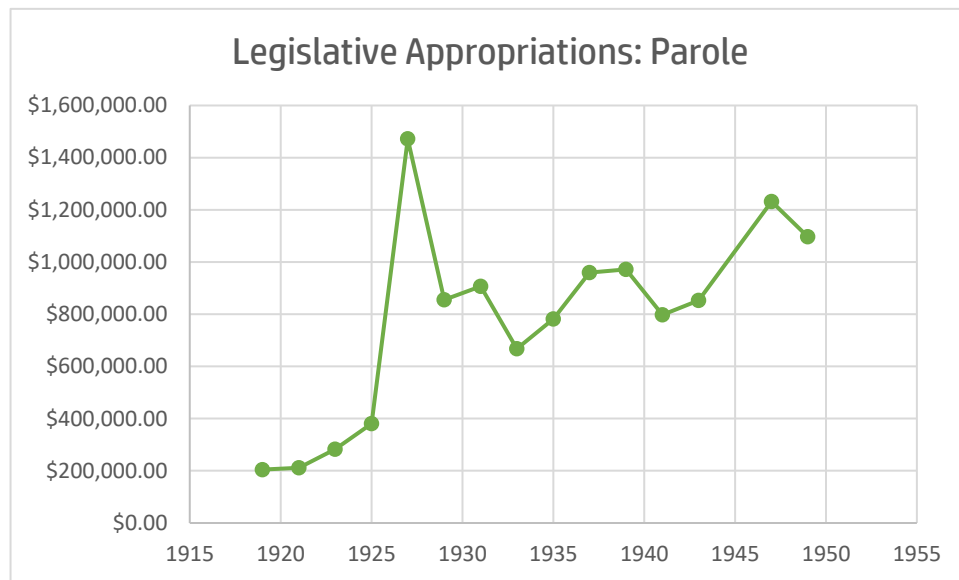


Figure 2 This chart shows the biennial legislative appropriations for the Illinois parole board, the supervision of parolees (beginning in 1927), and the three Illinois prisons for adult men. Note the steady rise in appropriations, even as the number of persons incarcerated plateaus between 1933 and 1943.

funding for the 1927 biennium—as compared with just over two hundred thousand dollars allotted for a two year period less than a decade before (see Figure 2).<sup>34</sup> Legislative

additional \$675,000 to the CPD’s annual budget to support hiring 1,000 additional officers. This move increased the size of the department by almost 20 percent. The CPD also placed additional policewomen on the force to engage in “crime prevention work” with Chicago women and children. Nora C. Krinitsky, “The Politics of Crime Control: Race, Policing, and Reform in Twentieth Century Chicago” (PhD diss., University of Michigan, 2017), 129, 178. As budgets shrank during the Great Depression, the CPD cut down on administrative work and instead assigned as many officers as possible to lengthy foot patrol shifts. New divisions sprang up to address vagrancy, auto theft, vice, and gambling. The vice and gambling unit targeted the policy enterprise in the Black Belt, arresting hundreds of people per day. Historian Simon Balto reports that 87% of all CPD raids conducted in 1932 took place in African American neighborhoods. Balto, *Occupied Territory*, 72.

<sup>34</sup> Omar H. Wright and William H. McLain, *State of Illinois Second State Budget for the Biennium Beginning July 1, 1921* (Springfield: Illinois State Journal Co., 1921), 238, 242, 247, 259; A.C. Bollinger and William H. McLain, *State of Illinois Third State Budget for the Biennium Beginning July 1, 1923* (Springfield: Illinois State Journal Co., 1923), 163-168, 174; A.C. Bollinger and James M. Kittleman, *State of Illinois Fourth State Budget for the Biennium Beginning July 1, 1925* (Springfield: Illinois State Journal Co., 1925), 164-176; A.C. Bollinger and James M. Kittleman, *State of Illinois Fifth State Budget for the Biennium Beginning July 1, 1927* (Springfield: Illinois State Journal Co., 1927), 167-172; G. DeF. Kinney and James M. Kittleman, *State of Illinois Sixth State Budget for the Biennium Beginning July 1, 1929* (Springfield: Journal Printing Company, 1929), 176-182, 186; G. DeF. Kinney and James A. Watson, *State of Illinois Seventh State Budget for the Biennium Beginning July 1, 1931* (Springfield: Journal Printing Company, 1931), 217-219; K.L. Ames, Jr., *Seventeenth Annual Report of the Department of Finance, July 1, 1933 to June 30, 1934* (Springfield: State of Illinois, 1934), 22; K.L. Ames, Jr., *Eighteenth Annual Report of the Department of Finance, July 1, 1934 to June 30, 1935* (Springfield: State of Illinois, 1935), 43; K.L.

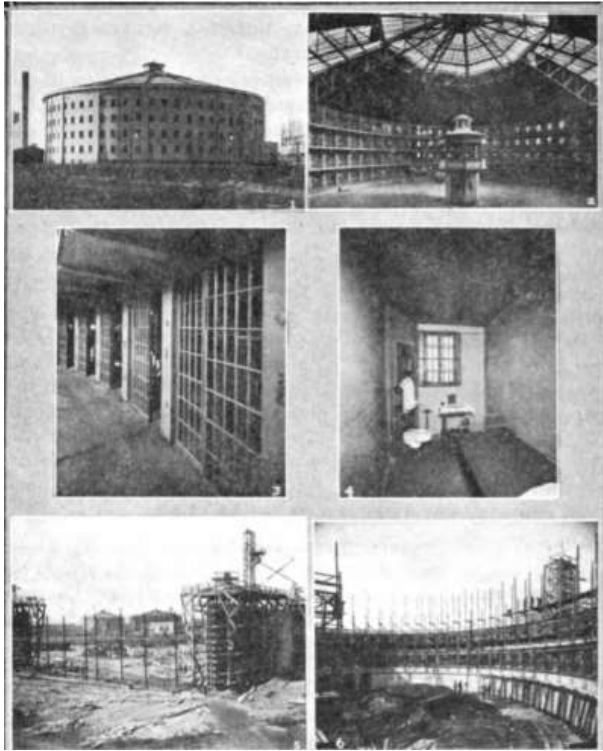


Figure 3 Images of two panopticon-style cellhouses at Stateville, showing one finished circular cellhouse and its interior, including cell doors and a cell interior. The bottom two images show the construction of an additional circular cellhouse. By the time the prison opened in March 1925, it boasted four cellhouses like those pictured above. Joliet prisoners did most of the construction work.

appropriations directed towards the policing, imprisonment, and surveillance of Illinois's citizens grew over the course of the interwar period, even as the state's prison population plateaued.<sup>35</sup> The expanded penal bureaucracies the state funded did not disappear as the number of prisoners reached its peak and began to decrease in the early 1940s, but instead remained to set the stage for massive carceral growth in the postwar period. Indeed, many of the structures that seemed to drive incarceration in the second half of the century were built up decades before the 1970s. The birth of the carceral state was a gradual process, as state-level prison systems and law enforcement expanded with "each campaign for law and order and against certain crimes

Ames, Jr., *Nineteenth Annual Report of the Department of Finance, July 1, 1935 to June 30, 1936* (Springfield: State of Illinois, 1936), 52; S.L. Nudelman, *Twenty-First Annual Report of the Department of Finance, July 1, 1937 to June 30, 1938* (Springfield: State of Illinois, 1938), 57; A.M. Carter, *Twenty-Third Annual Report of the Department of Finance, July 1, 1939 to June 30, 1940* (Springfield: State of Illinois, 1940), 66; George B. McKibbin, *Twenty-Fifth Annual Report of the Department of Finance, July 1, 1941 to June 30, 1942* (Springfield: State of Illinois, 1942), 96, 110; M.A. Saunders, *Twenty-Eighth Annual Report of the Department of Finance, July 1, 1944 to June 30, 1945* (Springfield: State of Illinois, 1945), 91-96; M.A. Saunders, *Thirty-First Annual Report of the Department of Finance, July 1, 1947 to June 30, 1948* (Springfield: State of Illinois, 1948), 150-152. Funds from the penitentiaries' industrial working capital fund are included in the numbers from the 1941 and 1943 biennial reports.

<sup>35</sup> The number of persons incarcerated at the three branches of the Illinois State Penitentiary for adult men rose sharply during the 1920s, but remained relatively stable from 1933 to 1943, hovering between 10,000 and 11,000 men. By contrast, the legislative appropriation for Joliet-Stateville, Menard, and Pontiac increased from \$4,560,988 to \$11,110,972 during that time frame. Statistics compiled from sources in note X; from Department of Public Welfare, *Statistical review of prisons, reformatories, and correctional institutions* (Springfield: State of Illinois, 1939), 13; and from Department of Public Safety, *Annual Report of the Department of Public Safety, July 1, 1941 to June 30, 1942* (Springfield: State of Illinois, 1942), 52. Prison construction image is from Illinois Department of Public Welfare, *Fourth Annual Report of the Department of Public Welfare, July 1, 1920 to June 30, 1921* (Springfield: Illinois State Journal Co., 1922), 24.

and vice.” Though these campaigns always receded, the institutions they created and the increased carceral capacity they demanded usually endured.<sup>36</sup>

“Getting Out” shows how the frenzy over the crime war in Illinois contributed to the buildup of carceral bureaucracy at the state level, culminating in the expansion of the parole system (even as the number of paroles actually granted dipped), the centralization of the prison system, and the institution of intensive classification procedures at the penitentiaries and reformatory. These new, purportedly objective classification systems were based on research conducted using institutional records and served to harden and provide a gloss of objectivity to the racial and class biases that drove parole decision-making in the Progressive era and the postwar period. Social scientists wrote race and class into ostensibly neutral classification procedures, including an actuarial parole prediction system that would evolve over the next four decades to become a model for national crime risk assessment in the 1970s. In the meantime, African American, Latinx, and poor prisoners in Illinois found their already narrowed chances at parole becoming slimmer still. The persistence of class and race-based ideologies in the 1930s administration of discretionary justice occurred in part *because* of the influence of science and social science, rather than in spite of it. Prison populations grew and ex-prisoners spent longer periods of time under the supervision of state parole agents, while parole releases—hampered by a parole board terrified of risk—stayed the same. The following chapters show that to understand the expansion of the criminal justice system during the first war on crime, historians must explore changes to release procedures as well as the role of social scientists in penal bureaucracy at the state level—both integral parts of the political project of crime control in Illinois.

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<sup>36</sup> Gottschalk, *The Prison and the Gallows*, 7.

“Getting Out” also explores how attention to risk as a category of analysis can change our understanding of criminal justice history. As social theorists and, later, professional historians have argued, the need to identify and manage social risks has become a critical role for the modern state.<sup>37</sup> Though managing risk is and was a central project for carceral institutions, which are responsible for both locking away and releasing criminal suspects and offenders, criminal justice histories rarely center the concept. Carceral historians’ neglect of risk as an analytic tool obscures the ways the news media, penal administrators, policymakers, and social scientists thought about the project of criminal management in the interwar period, especially in relation to parole. “Getting Out” takes Illinois as a case study to consider how these groups assessed and attempted to control the risks posed by individuals through the institution of informed release practices. Looking at the risk management calculations inherent in parole board decision-making offers insight into the institutionalization of classification processes that began to structure penal management and influence parole decisions during the first war on crime.<sup>38</sup> The risk ideologies undergirding first parole board members’ and then sociologist-actuaries’ construction of the poor parole risk involved preexisting ideas about race and class which comprised the underlying logic

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<sup>37</sup> Social theorist Ulrich Beck famously coined the term ‘risk society’ to characterize the way modern societies organize and mobilize resources to manage risk. Changes in understandings of risk and in perceptions of who can best assess and handle it are key to the transition to modernity, in Beck’s understanding. See Arwen P. Mohun, “Constructing the History of Risk: Foundations, Tools, and Reasons Why,” *Historical Social Research/Historische Sozialforschung* 41, no. 1 (2016), 34-35; Soraya Boudia and Nathalie Jas, “Introduction: Risk and ‘Risk Society’ in Historical Perspective,” *History and Technology* 23, no. 4 (September 2007), 317-331. Historical studies using risk as an analytic largely focus on credit and financial markets, insurance, disasters, and the welfare state (including worker and consumer safety). For a sampling of the literature, see Dan Bouk, *How Our Days Became Numbered: Risk and the Rise of the Statistical Individual* (Chicago: University of Chicago Press, 2015); Caley Dawn Horan, “Actuarial Age: Insurance and the Emergence of Neoliberalism in the Postwar United States” (PhD diss., University of Minnesota, 2011); Julia Moses, *The First Modern Risk: Workplace Accidents and the Origins of European Social States* (New York: Cambridge University Press, 2018); Arwen Mohun, *Risk: Negotiating Safety in American Society* (Baltimore: Johns Hopkins University Press, 2013); and Jonathan Levy, *Freaks of Fortune: The Emerging World of Capitalism and Risk in America* (Cambridge: Harvard University Press, 2012).

<sup>38</sup> This development in Illinois follows a trend observed in historical studies of risk management within the modern, administrative state: the rise of a “new expert culture that generated knowledge in order to find solutions that could... help to reduce risks or make them more acceptable.” Peter Itzen and Simone M. Müller, “Risk as a Category of Analysis for a Social History of the Twentieth Century: An Introduction,” *Historical Social Research/Historische Sozialforschung* 41, no. 1 (2016), 16.

of parole decision-making, as illustrated in chapters three and four.<sup>39</sup> I posit in the following pages that while penal administrators and social scientists understood the institution of classification processes and institutional segregation as progressive practices, the risk ideologies overlaid onto Illinois's diagnostic and actuarial procedures served to reduce already slim opportunities for the most marginalized men within the prison population.

Chapters two and five introduce a competing risk ideology constructed by political interests and powerful newspapers, mainly the *Chicago Daily Tribune*, that would challenge these evolving social scientific conceptions of risk and the social scientists who created them. The critique of parole seemed an almost natural outgrowth from the daily newspaper's "focus on violence and sensation," which set the stage for its clamor for punishment and positioning of lengthy sentences as a measure of public protection.<sup>40</sup> Though the *Tribune* railed against the parole system long before the 1920s crime wave, chapter two chronicles an exposé of parole board corruption that marked the beginning of its more strident calls for law and order. The paper began to advance a more cohesive risk ideology, both defining the criteria necessary to make an adequate assessment of criminal risk and calling for that power to be vested in the state's judiciary. Various state legislators, judges, and law enforcement officers supported this policy change and the abolition of the parole board at politically convenient times, and the

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<sup>39</sup> I borrow the term "risk ideologies" from sociologist Robin Bartram's article "Emplacing Risks in the City." Bartram defines risk ideologies as "sets of ideas about [who], what and where is dangerous." The "who" is my addition. There may be multiple risk ideologies in play and competing with each other at any one time. For instance, while one parole board member might conceive of a prisoner's history of sexually motivated crimes as a serious risk factor, another might believe that sex offenders generally do not exhibit recidivism and are therefore good parole risks. Additionally, risk ideologies are malleable and capable of evolution. Though Bartram claims to have coined the term, criminologist Keramet Reiter is among the social scientists who have leveraged it in similar ways. Robin Bartram, "Emplacing Risks in the City: Class, Politics, Risk, and the Built Environment of Women's Residential Clubs, 1896-1917," *Journal of Urban History* 44, no. 2 (2018), 219. Also see Keramet Reiter, "Reclaiming the Power to Punish: Legislating and Administering the California Supermax, 1982-1989," *Law & Society Review* 50, no. 2 (2016), especially 491-497.

<sup>40</sup> John Carter Wood, "Crime News and the Press," in *The Oxford Handbook of the History of Crime and Criminal Justice*, eds. Paul Knepper and Anja Johansen (New York: Oxford University Press, 2016), 306.



*Tribune* amplified their voices. But the newspaper's critique remained the most consistent and likely the most threatening to the institution of parole in Illinois.<sup>41</sup> It maintained that judges were best equipped to assess the danger posed by each convicted offender, and that this risk assessment and the sentence handed down should be determined by the defendant's crime and criminal history.

The paper's criticisms evolved as the parole board adopted new technologies in the 1930s. By then, the parole board was not just vulnerable to politics but also inappropriately "engaged in complicated 'social' and humanitarian purposes, highly theoretical and far beyond the present knowledge and competence of parole agencies."<sup>42</sup> A holistic assessment of the prisoner and a risk score based on his comparison to an aggregate was worse than useless—it was a danger to the public. The *Tribune*'s fiery opposition to and constant coverage of the institution in the late 1920s, and again in the late 1930s, swayed the board enough to dramatically reduce the number of paroles granted for brief periods. But in the end, the state's actuarial system survived for decades and inspired the risk assessment tools adopted across the country in the age of mass incarceration. From 1933 to 1978, when parole was abolished in Illinois, sociologist-actuaries monopolized the definition of risk. They located risk in the history of particular bodies, continually using the past to actively shape the future for many prisoners—

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<sup>41</sup> The *Tribune*'s stories had the potential to incense large swaths of Illinois readers, who might then express their disapproval of the parole board by voting the governor who controlled appointments to it and politicians who supported it out of office. It was Chicago's most widely read newspaper by 1925, with a daily circulation of 650,000. Distribution figures were also impressive—the paper served a five-state area and its distribution was greater than any other paper in the Midwest in 1918. It catered to such a large market that even national advertisers bought space in the *Tribune*'s pages. The enterprise expanded further under the leadership of Robert R. McCormick between the 1910s and the 1950s. McCormick founded a radio station in 1924 and a television channel in 1948. Though McCormick's editorial opposition to the New Deal earned the paper enemies in the 1930s, this official stance did not reduce readership. By 1942, the *Tribune*'s circulation reached one million, double that of any other paper in Chicago. Mark R. Wilson, "Chicago Tribune," in *The Electronic Encyclopedia of Chicago*, eds. Janice L. Reiff, Ann Durkin Keating, and James R. Grossman (Chicago: Chicago Historical Society, 2005): <http://www.encyclopedia.chicagohistory.org/pages/275.html>. Lloyd Wendt, *Chicago Tribune: The Rise of a Great American Newspaper* (Chicago: Rand McNally & Company, 1979), 434, 624.

<sup>42</sup> "Court vs. Parole Board," *Chicago Daily Tribune*, June 1, 1937, 12.

determining institutional assignments and transfers as well as release on parole. The very practice of risk-mitigation within the penal system allowed carceral institutions to make and justify ever more drastic interventions into prisoners' lives.

Greater attention to risk assessment within carceral history might also mean greater attention to parole within the historical literature. Most histories of parole have been written by criminologists and socio-legal scholars, including Jonathan Simon, Joan Petersilia, and Bernard Harcourt.<sup>43</sup> In his Foucauldian study of parole, *Poor Discipline*, Simon argues that the driving purpose behind the institution shifted from controlling prisoners through the promise of early release and preparing them for reintegration into capitalist society's disciplinary labor regime to supporting the exclusion of formerly incarcerated persons from the workforce and political life. Like most studies, Simon concentrates almost exclusively on administrative changes, the evolution of penal officials' management strategies, and shifts in understandings of criminality and rehabilitation. He also bases his work entirely on published sources and assumes that his arguments about the history of parole in California can be applied nationwide.<sup>44</sup> David Rothman's chapter on parole in *Conscience and Convenience* is similarly ambitious.<sup>45</sup> More recent historical scholarship on parole, by contrast, follows historian Carolyn Strange's admonition that "state-by-state" studies of discretionary justice—attentive to political and

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<sup>43</sup> Jonathan Simon, *Poor Discipline: Parole and the Social Control of the Underclass* (Chicago: The University of Chicago Press, 1993); Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry* (New York: Oxford University Press, 2009), especially chap. 3; and Bernard Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* (Chicago: The University of Chicago Press, 2007).

<sup>44</sup> Simon, *Poor Discipline*, 12-13.

<sup>45</sup> Rothman makes sweeping and often erroneous generalizations regarding state parole systems without extensive support from primary source material. See, for example, his claims about "the exercise of parole's policing function," which do not hold up for states like New York and Illinois in the 1930s. Rothman, *Conscience and Convenience*, chap. 5 "A Game of Chance: The Condition of Parole." See p. 178 for the discussion of parole supervision. The problem at the heart of his chapter on parole lies with his contention that parole decisions were arbitrary. Though parole decisions were often less complex and scientific than parole board members would like to admit, "Getting Out" and other work focused on state-level parole systems show that the operation of the institution and the choices boards made in individual cases involved ideological, political, institutional, and economic considerations.

economic conditions as well as the individuals involved in parole decision-making—must build the “foundation for a nationwide analysis” of pardoning and parole.<sup>46</sup> As Strange argues, systems of discretionary justice differed by state. Florida’s pardon board, for example, functioned essentially as a parole board prior to 1941 when that state passed its first parole law. “Getting Out” provides a state-level study for Illinois, highlighting the unique aspects and evolution of its parole system while fitting these changes into national level stories: the war on crime, the expansion of penal bureaucracy in the 1920s and 1930s, and the eventual adoption of Burgess-type predictive models in criminal justice administration.

“Getting Out” also moves beyond law and administrative practice in its exploration of the Illinois state parole system.<sup>47</sup> Two of its five chapters center the experiences of parolees themselves. My work builds on several recent studies that show how the experiences of men and women on parole reveal differences in state practices and expose the many ways penal authority extended beyond prison walls. In some states, parole agents watched over formerly incarcerated individuals, while understaffed and underfunded parole systems might partially relegate supervision to employers or family members.<sup>48</sup> Others abdicated much of the responsibility for

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<sup>46</sup> Strange, *Discretionary Justice*, 6. Recent historical work on parole attentive to state and urban contexts also includes Cheryl D. Hicks, *Talk with You Like a Woman*, chaps. 8 and 9; James Campbell, “African Americans and Parole in Depression-Era New York,” *The Historical Journal* 54, no. 4 (2011), 1065-1086; Morgan Shahan, “Making Good: On Parole in Early Twentieth-Century Illinois,” *Journal of the Gilded Age and Progressive Era* (2020), 1-21, doi:10.1017/S1537781420000158; Ethan Blue, *Doing Time in the Depression*, chap. 8; Vivien M.L. Miller, *Crime, Sexual Violence, and Clemency: Florida’s Pardon Board and Penal System in the Progressive Era* (Gainesville: University Press of Florida, 2000); and Sarah Haley, *No Mercy Here*, chap. 4.

<sup>47</sup> While Strange’s work emphasizes the process of paroling incarcerated men in New York state, she pays little attention to men and women once they are pardoned or released on parole. Her monograph is a political history of paroles and pardons, dedicated to plotting “the arc of persistence and change in discretionary justice,” and an intellectual history that traces the debates over the power to grant mercy and release. Strange, *Discretionary Justice*, 9.

<sup>48</sup> Ethan Blue’s work shows how trusting employers with supervisory responsibility could have devastating effects for African American men on parole. Paroles and conditional pardons in Texas allowed white plantation owners to maintain control over black workers—with supervised release often serving as means and justification for peonage. In New York, Cheryl D. Hicks finds that some working-class black families appealed to state law and the stipulations of the parole contract to help bind women relatives to their strict moral standards. She also shows how black women on parole fought against these regulations, navigating their relationships with their relatives and state authorities. James Campbell finds similar evidence in the state for the 1930s and 1940s, illustrating the centrality of

parole supervision by sending former prisoners out-of-state—New York often “deported” black women with relatives in the South to southern states, even if the paroled woman had never lived there herself.<sup>49</sup> Prioritizing the actions of paroled individuals shows that these men and women could sometimes work the system to their own advantage, but also that the structure of state parole systems often made parolees vulnerable to exploitative employers. Historians Cheryl Hicks, Ethan Blue, and James Campbell use the experiences of parolees to expose the racialized workings of the parole system in New York, California, and Texas from the 1920s through the Depression era. Chapter one of “Getting Out” approaches the Illinois parole system in a similar manner, finding that partnerships between employers, voluntary organizations, businesses and the paroled men and women they sponsored wove middling-class conceptions of respectability into the early parole system. Chapter five picks up this thread, examining the later expansion of the state’s policing function through parolee-agent relationships and paroled men’s encounters with the Chicago police in the late 1930s and early 1940s. Ultimately, as “Getting Out” argues, a parole system’s evolution must be traced through the relationships between paroled men and women, their employers, parole agents, and penal officials—as well as top-down administrative policies.

### **Sources and Methodological Approaches**

Most historians reflect on the making of the archival repositories where we do our research—the assembly of (if we are lucky) meticulously filed and labeled materials in acid-free boxes—and the actors represented and not represented within collections. Historians of carceral

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race to parole work. Parole administrators, policymakers, and reformers believed that buy-in from the black community was crucial for parole success. Their shared commitment to racial uplift sharply divides New York’s parole system from southern counterparts, though African American individuals and organizations ultimately enjoyed little influence over the institution due to their “second-class economic, social, and political status.” Blue, *Doing Time*, 230-233. Hicks, *Talk with You*, chap. 8. Campbell, “African Americans and Parole,” 1066.

<sup>49</sup> Hicks, *Talk with You*, chap. 9.

institutions, in particular, are confronted immediately with what Kelly Lytle Hernández refers to as an “archival void.”<sup>50</sup> The scarcity of accessible prison records may be due to the destruction of documents related to incarceration and policing, the closure of records to researchers, or the calculated inertia of modern bureaucrats interested in obscuring an unflattering history. When I arrived in Springfield, Illinois, I confronted the void on my first day in the State Archives. The collection I hoped would form the foundation of my dissertation project was no longer open to researchers. The Parole and Pardon Board’s institutional jacket files were restricted not only under the Freedom of Information Act and the Unified Code of Corrections for the State of Illinois, but as I found out later, by state legislation barring researchers from any documents created during the provision of mental health services.<sup>51</sup> As I conducted research for this project, I often longed for access to the institutional jackets that might bring me slightly closer to the incarcerated and formerly incarcerated people whose voices I try to amplify as much as possible in the pages of this dissertation.

Though archival limitations can seem to stymie a project at first, as Hernández, Kali Nicole Gross, Talitha L. LeFlouria and so many other historians of incarceration in America have shown, there are ways to work around and with the gaps and silences.<sup>52</sup> I found myself inspired by the work of these scholars to push ahead with this project, reading official records with a skeptical eye, finding prisoners’ writings in unexpected places, and locating some of the documents contained in the institutional jacket files in personal papers collections. As I carefully

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<sup>50</sup> Kelly Lytle Hernández, *City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771-1965* (Chapel Hill: University of North Carolina Press, 2017), 2.

<sup>51</sup> Jason D. Sweat, Chief Legal Counsel, Illinois Prisoner Review Board, email message to author, August 1, 2016.

<sup>52</sup> Hernández, *City of Inmates*; Kali Nicole Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910* (Durham: Duke University Press, 2006), especially the introduction; Talitha L. LeFlouria, *Chained in Silence*. Thanks also to Nathan Connolly for introducing me to Michel-Rolph Trouillot’s *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995), which has shaped much of my thinking about the operation of power in the creation of archives and historical narratives.

unfolded crumpled papers documenting a plea for clemency or leafed through a ledger smudged with red rot, I thought about the documents' origins and remembered that someone made the conscious choice to preserve them. These are things long-ago state actors deemed important and squirreled away, albeit in a place that would give any archivist nightmares—somewhere dark and dank.<sup>53</sup> It is fortunate that some Illinois prison records survived as long as they did.

Within the state's records, the most compelling accounts of men and women on parole are located in the Penitentiary Mittimus Files. Forms, letters, arrest warrants, parole reports, photographs, and other materials included within gave me a window into the everyday negotiations that defined the parolee experience in the early part of the twentieth century. Clemency requests occasionally added details to this picture. Prison registers, alongside annual reports from the Department of Public Welfare and other state agencies provide the quantitative, demographic information crucial to writing the history of discretionary release. These official sources helped me understand the administrative structure of the parole system and its evolution from the 1890s through the 1940s. My analysis of formerly incarcerated men's interactions with the parole system picks back up in Chapter five thanks to sociologists Donald Rasmussen and Hans W. Mattick. Rasmussen's 1938 dissertation, found in the personal papers of Joliet-Stateville warden Joseph Ragen, contains writings by hundreds of anonymous Depression-era inmates. Sociologist and Cook County Jail assistant warden Hans W. Mattick saved the transcripts of dozens of interviews with former parolees from each of the three men's branches of the Illinois State Penitentiary. The archival digging required to unearth the often-mediated voices of paroled men and women that appear in this study was frustrating at times, but I could not tell much of this story without them. The following brief paragraphs discuss the major source

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<sup>53</sup> Thanks to Alex Dixon, who worked for many hours to remove colorful and toxic molds from many of the mittimus files I worked with for this project.

bases “Getting Out” uses to reconstruct and analyze the experiences of formerly incarcerated individuals.

As rich as these sources are, much of what is preserved in the Illinois State Archives must be read cautiously. My approach to the penitentiary mittimus files and clemency records accounts for the ways these sources were constructed for their intended audience—often prison officials—and what may go unwritten within them as a result. The letters to prisoners from family members, friends, and former employers often included in mittimus files were meant to be read not only by their eventual recipient, but also by prison censors. Relatives, friends, and community members also sent reams of letters intended for the parole board, usually written in support or opposition of a prisoner’s parole, which must be read with this purpose in mind. The aging parents hoping for their child’s release and the young wives struggling to make ends meet in free society might exaggerate their plight or the virtues of their son or husband in correspondence with the board. Still, these epistolary portrayals of prisoners lend insight into the kinds of stories and expressions of norms and values the letter-writers believed would appeal to penal officials. Once released, formerly incarcerated men and women sometimes corresponded with prison administrators as well as their parole agents. Many of their messages are also preserved in the mittimus files. The greatest volume of correspondence from formerly incarcerated individuals comes from parolees in crisis—looking to change jobs or fighting a parole agent or employer’s allegations that could send them back to prison. These communications help reveal how the constant negotiations between parolees, employer-supervisors, and penal officials shaped the early parole system in Illinois.

Using Donald Rasmussen and Hans W. Mattick's sociological studies of prisoners and formerly incarcerated men presents a very different set of challenges.<sup>54</sup> When interviewing participants in their studies, both Rasmussen and Mattick had their own purposes—to ascertain prisoners' attitudes towards the parole system and to compare civilian and military parole experiences, respectively. These purposes and the background knowledge possessed by both sociologists are different than my aims when reading answers to their interview questions and attempting to contextualize their studies within my own research. Rasmussen, for instance, collected prisoner opinions about parole over the course of two summers at the Stateville branch of the Illinois State Penitentiary. He believed this would better inform the “policies of administrators and the principles of professional penologists,” which he argued were often “based upon their conceptions of the attitudes of prisoners.”<sup>55</sup> As such, the questionnaire he distributed to incarcerated men asked for fairly specific policy opinions rather than providing space for prisoners to structure their own assessments of the system. His approach to the study, including the directions he gave to the men filling out the questionnaires, his physical presence when conducting oral interviews, and the choice of the “articulate” incarcerated men he chose to write unguided essays all shape the responses he received.<sup>56</sup> Moreover, Rasmussen's interviewees were anonymous, which may have encouraged some men to air their grievances without fear of reprisal, but which also obscures any perspective that might be gained by understanding participants' socioeconomic and racial backgrounds. Given these considerations,

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<sup>54</sup> Donald Rasmussen, “Attitudes of Joliet-Stateville Prisoners Toward Parole,” (MA thesis, University of Illinois, 1938), 41, in Joseph Edward Ragen Papers, Box 5 Folder 2, Abraham Lincoln Presidential Library. Hans W. Mattick, materials concerning study entitled “Parole to the Army,” mostly box 175, Hans W. Mattick Papers, Chicago History Museum Research Center.

<sup>55</sup> Donald Rasmussen, “Prisoner Opinions about Parole,” *American Sociological Review* 4, no. 4 (August 1940), 584.

<sup>56</sup> See appendices for Rasmussen's complete questionnaire. Joanna Bornat discusses similar issues in her article, “A Second Take: Revisiting Interviews with a Different Purpose,” *Oral History* 31, no. 1 (Spring 2003), 47-53.



“Getting Out” uses Rasmussen’s work to explore incarcerated men’s understanding of the workings of the parole board. Their perspective lends insight into how prisoners responded to parole board reforms and newspaper publicity, what effects those developments had on their prison experience, and how they approached the release process.

While Rasmussen’s completed dissertation remains the only archival trace of his research endeavors, many components of Hans W. Mattick’s “Parole to the Army” study are well-preserved in his personal papers collections at Chicago History Museum’s Research Center. Dozens of interview transcripts contain verbatim conversations with former parolees—both men paroled directly to the army and men who spent time on parole in civilian life before their induction. These transcripts are full of details about each interviewee, the interview environment, and the rapport established during the conversation. In often lengthy prefaces to the text of each interview, Mattick describes men’s attitudes toward him and his study. He notes any reticence to answer questions and suspicions expressed regarding the purpose of the interview. Mattick was a state employee working in the field of corrections when he conducted these interviews, and knew that the formerly incarcerated men he spoke with for his study might not be inclined to admit to violational behavior during their parole or to contacts with law enforcement after their discharge from the armed forces. Fear of arrest and re-incarceration may have kept these men from detailing any illegal activity they engaged in following their release from prison. Worry that their responses might affect current prisoners seeking parole also motivated interviewees to present their stories in the best possible light. Mattick’s questions, too, shaped the course of these conversations. Still, Mattick’s work lends insight into the day-to-day relationships between paroled men, their employers, and the state—the parole agents and local law enforcement officials who assumed much of the responsibility for surveilling formerly incarcerated

individuals in the 1930s and 1940s. His study allows “Getting Out” to move beyond official assessments of the parole system to expose its practical workings.

## **Chapter Outline**

“Getting Out: Parole, Politics, and Risk Assessment before the Carceral State, 1895-1939” traces the development of indeterminate sentencing laws and parole systems that allowed for the extension of the early carceral state into free society. Moving across time from the Progressive era to the beginning of World War II, I analyze the constant formal and informal negotiations between the state and those involved in the administration of parole—voluntary organizations, businesses, social scientists, and ex-prisoners and their families.

Chapter one, “Making Good: On Parole in Early Twentieth Century Illinois,” explores the public-private partnerships that comprised the parole system in Illinois in its first two decades. The state legislature passed Illinois’s first parole law in 1895, but underfunding left parole agents and wardens dependent on partnerships with private individuals, businesses, and charitable organizations. While the law indicated that parole agents would watch over ex-prisoners and aid in their rehabilitation, the state instead relied on private individuals, businesses, and voluntary organizations to supervise parolees. Agreements forged between prison officials and these supervisors illustrate the extent to which the private sector took on the functions of the state during the Progressive Era. As a result, employers and voluntary organizations developed a range of surveillance practices to maintain control over former prisoners, using informal systems of assessment and notions of success to evaluate the parolees in their charge. Though the parole system represented innovation on the part of the Illinois state government—a nod to emergent rehabilitative frameworks in penology—the reliance on voluntary organizations and businesses wove older class and gender ideals into this newer, purportedly more scientific and objective

institution. Chapter one illuminates the everyday challenges of life on parole, tracing the experiences of ex-prisoners during the process of reentry and exposing the constant negotiations between employers, voluntary organizations, prisons, and parolees.

Chapter two, “The ‘Parole Evil’: Murder, Scandal, and Reform in the Illinois Parole System” finds that by the 1920s, parole had become a scapegoat charged with exacerbating rising crime rates. For years, Chicago papers blamed parole for allowing serious offenders to escape punishment. Affluent or well-connected prisoners, the media charged, could serve short sentences before resuming their illicit activities. A newspaper uproar connected with suspicious documents found at a grisly murder scene at Stateville Penitentiary thus became a moment of reckoning for the parole system in Illinois. Bad publicity during the “parole-mill” scandal proved a real threat to the board as its members were political appointees reliant on Governor Lennington Small’s administration for job security. The scandal harmed prisoners, too, as the board responded by cutting down on the number of men, women, and juveniles released from the state’s prisons and reformatory. As the decade came to a close and the appointment of a new parole board head failed to win the media’s trust, the state turned to social science for a solution, forming the Committee on the study of the Workings of the Indeterminate-Sentence Law and of Parole in the State of Illinois. Chapter two ends with this first step in Illinois’s modernizing initiative to root out corruption and centralize bureaucratic control within its rapidly expanding carceral system, a measure that would lead to efforts to legitimate parole decision-making by quantifying risk.

Chapter three, “Back to the Future: Ernest W. Burgess, Prison Paperwork, and the Origins of the Predictive Model,” explores sociologist Burgess’s attempt to place the parole

board's work "on a scientific... basis."<sup>57</sup> The academic believed firmly in the essential predictability of human behavior and set out to create a statistical model that would both legitimize and improve release decisions, allowing the board to better manage the risks associated with parole. Chapter three examines Burgess's efforts to identify an "objective" set of factors that would reveal the likely recidivist. He examined the board's methods, pored over interviews with prison staffers and administrators, and read through prison records as he searched for information that might help separate men who would make good from men who would violate their parole contracts. Even as Burgess sought to remove subjectivity from the parole process and distance the board from the 1926-7 scandal, his recommendations perpetuated many of the same assumptions and biases that had informed parole decisions for years. His actuarial prediction method—a numerical score for institutionalized men designed to predict success or failure on parole—did not revolutionize the selection process. Instead, it solidified and institutionalized understandings of risk as located in static factors lying within each individual prisoner's past. The predictive weight of the past ensured that men would be marked as good or poor parole risks from the moment they set foot in the penitentiary.

Chapter four, "Who Makes Good?: Ernest W. Burgess and the 'Science of Prediction,'" unpacks Burgess's predictive method, showing that many of the categories chosen as part of the factor analysis procedure relied heavily on social scientific assumptions about poverty, ethnicity, and race. This section explains how actuarial prediction wrote poverty and blackness, always liabilities for men caught up in the criminal justice system, into more efficient and standardized Illinois release procedures. I examine why Burgess associated elements of each man's criminal

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<sup>57</sup> Andrew A. Bruce, Ernest W. Burgess, and Albert J. Harno, "Summary of Findings and Recommendations," in *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 267-268.

history, socioeconomic status, family and residential background, and mentality with recidivism, how these categories would have been applied to prospective parolees, and who would have remained incarcerated under the predictive method. The chapter draws on secondary scholarship to contextualize the factors and their probable effects in practice. Ultimately, I argue that Burgess's statistical portrait of a high-risk individual hardened a particular risk ideology that worked to keep poor men and men of color incarcerated for longer periods of time. The actuarial prediction method imbued categories based on race and economic status with greater power, cementing them within the release process in ways that had immediate effects on already marginalized incarcerated men and provided a quantitative gloss of objectivity to release procedures.

Chapter five, “‘Don’t Turn ‘Em Loose:’ Prison, Publicity, and Parole in an Age of Carceral Expansion” traces efforts to centralize corrections in Illinois, the development and revision of the Burgess system over the course of the 1930s, and the effects of these changes on incarcerated men and parolees. As prison populations rose over the course of the 1920s and 1930s, Illinois worked towards new management solutions. The centralized Illinois State Penitentiary installed diagnostic depots at Joliet-Stateville and Menard prisons, expanded and professionalized parole supervision, and extended the time convicted men spent in institutional custody. Though state officials may have hoped that the scientization of the parole decision-making process could ameliorate overcrowding, the rate of paroles never kept pace with admissions due to widespread panic over a perceived increase in violent crime—especially highly-publicized vicious acts committed by paroled men. Still, Illinois committed to Burgess's predictive model, and newly installed sociologist-actuaries worked to refine it while guiding board decisions with prognostic scores. The institutionalization of the Burgess model also

influenced new classification processes within the centralized correctional system, shaping the way officials thought about rehabilitation prospects as well as the risks associated with release. Chapter five first explores the absorption and evolution of the risk ideology connected with actuarial prediction as the state struggled towards management solutions to maintain control over those incarcerated and under parole supervision. The second half of the chapter considers incarcerated and formerly incarcerated men's experiences with changes in the parole system and the newly expanded prison bureaucracy. I use qualitative data from Donald Rasmussen and Hans W. Mattick's research to explore prisoner encounters with the scientized parole board, increased state policing of parolees, and the ways race and class continued to shape the parole experience. The central role played by thrill-killer Nathan F. Leopold both in parole prediction research and in preparing incarcerated men for their eventual transition to free society helps form the narrative structure for the chapter.

## CHAPTER ONE

### **Making Good: On Parole in Early Twentieth-Century Illinois**

In May of 1898, Charles S. Bain made a promise he could not keep. He added his signature to the bottom of a parole agreement with a flourish, bound himself to the eight rules listed above his name, and left Joliet Penitentiary for a new life in Chicago. On the surface, Bain appeared more likely to succeed on parole than most men released from Joliet. He was a college-educated Scottish immigrant and worked as a clerk in Kane County at the time of his arrest for embezzlement in October, 1896.<sup>58</sup> But in his first month in free society, Bain's inability to keep a job tested the patience of his employer, Reverend A.C. Dodds. In the parole agreement, Dodds indicated that he would "counsel and direct [Bain] in that which is good" and report any "absence from work, any tendency to low and evil associations, or any violation of the conditions of his parole" to Joliet's warden.<sup>59</sup>

As Superintendent of the Illinois Industrial Association, an organization meant to "provide temporary employment for discharged prisoners who manifest a disposition to lead correct lives," Dodds regularly mailed parole reports for the men in his charge to Warden Robert W. McClaghry.<sup>60</sup> Many parolees Dodds supervised required that he send only one letter per month to McClaghry, detailing how much the man earned and what his expenses were for the four week period. Keeping McClaghry abreast of Bain's activities required more than quick mental math and a signature. The young Scotsman's first few days on parole were tumultuous—he could not perform tasks required of him in the Association's broom factory and proved an "utter failure" in his next job with a publisher. Four positions later, Bain informed his landlady

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<sup>58</sup> "Convict Examination Sheet" for Charles S. Bain, alias C.W. Wilson, Oct. 20, 1896, Penitentiary Mittimus Files, 1857-1916, Illinois State Archives (hereinafter ISA).

<sup>59</sup> "To the Proposed Employer" in the case of inmate no. 5162, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>60</sup> Reverend A.C. Dodds to Warden Robert W. McClaghry, June 1898, Penitentiary Mittimus Files, 1857-1916, ISA. This mission statement appears on the Illinois Industrial Association's letterhead.

that he was canvassing for books and making \$3.00 per day. The landlady soon contacted Reverend Dodds. Bain, she said, was not busy selling books from door to door, but instead could be found “lying around the house, or out riding the bicycle of another boarder.”<sup>61</sup> This idleness nearly cost Bain his freedom.

Bain himself was not the typical Joliet inmate. His education, occupation, and the crime he committed probably inspired the warden’s reluctance to arrest and re-imprison him for violating his parole agreement. His experience on parole, however, serves quite well as a representation of the workings of the early system of indeterminate sentencing and supervised release in Illinois.<sup>62</sup> The epistolary traces left by Dodds, Bain, Warden McClaughry, and others like them offer entrée into the sprawling, nebulous network of public-private partnerships that characterized the institution of parole in the last few years of the 19th century and the first decade of the 20th.<sup>63</sup> While the 1895 Illinois parole law stipulated that wardens would watch

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<sup>61</sup> Ibid.

<sup>62</sup> Parole laws, passed by most state legislatures around the turn of the century and by the federal government in 1910, provide for the supervised release of prisoners, usually before the completion of their maximum sentences on the promise of good behavior. An 1895 law provided for parole under an indeterminate sentence for certain criminal offenses in Illinois. An indeterminate sentence, as opposed to a definite sentence, consists of a range of years (such as “one to ten”) during which a person can be confined within a corrections facility. The exact length of the sentence depends upon the person’s conduct while imprisoned combined with additional variables. These include criminal history and perceived risk to society, among others. At any point following the completion of the minimum sentence the body responsible for releasing inmates on parole considers these combined factors to decide whether the prisoner is fit to return to society.

<sup>63</sup> Before the passage of the first parole law in 1895, Illinois prisons often partnered with private interests to generate profits or fund prison operating costs through inmate labor. In 1857, state officials signed a contract transferring control over its inmate population to the firm Casey and Hendricks, which used prisoner-workers to build Joliet Penitentiary. Illinois instituted a congregate contract labor system by 1871, in which the state retained physical control of prisoners (remaining responsible for feeding them, clothing them, guarding them, etc.) and hired out their labor to private businesses. These corporate interests then put their incarcerated labor force to work in shops housed on the grounds of the institution. Following the Panic of 1873, however, the political influence of manufacturers diminished and labor unions organized against the contract labor system. As prison reformers, socialists, and other radical interests joined the fight, manufacturers slowly backed away from contracting with state prisons. By 1886, the Prairie State amended its constitution to ban contract labor. For a detailed explanation of this trajectory, see Henry Kammerling, *Capital and Convict: Race, Region, and Punishment in Post-Civil War America* (Charlottesville: University of Virginia Press, 2017). Timothy Gilfoyle explores the day-to-day workings of a contract labor system at New York’s Sing Sing prison in *A Pickpocket’s Tale: The Underworld of Nineteenth-Century New York* (New York: W.W. Norton & Co., 2006), see especially pages 44-49. The southern practice of convict leasing is another example of post-bellum/Progressive Era partnerships between state prisons and private business interests. With the end of Radical Reconstruction, white southerners searched for a way to regain control over formerly enslaved black



over ex-prisoners, the state legislature quickly recognized that wardens were unable to manage those inside prison walls in addition to paroled men and women on the outside. In 1899, lawmakers granted officials from each of the three prisons the power to choose, appoint, and compensate a parole agent and outline his duties.<sup>64</sup> Geographical distances between many parole agents, who were based at each prison, and the men and women under their supervision combined with excessive caseloads led Illinois to depend on employers and voluntary organizations they considered worthy to supervise ex-prisoners. As part of an emergent class of professionalized prison administrators, Illinois wardens and early parole officers used their experience, education, and connections in the field of corrections to establish their expertise and vet employer-supervisors using an ostensibly scientific set of standards. The markers used to evaluate potential employers, however, were malleable and often based upon classist judgments.

The state's reliance on private citizens to manage paroled men and women also meant that the employers and voluntary organizations it deemed suitable developed a range of informal supervisory and surveillance practices to maintain control over parolees. The Illinois parole contract included eight rules to structure life on parole, but these were vague and often viewed by employers, paroled men and women, and sometimes even prison officials as subject to interpretation. The absence of a state-run bureaucratic hierarchy designed to provide oversight

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laborers. Almost immediately after African Americans set out to realize their post-emancipation dreams of landownership, voting rights, equality in the legal system, and economic independence, white politicians and business owners built up a host of legal and extralegal practices designed to keep former slaves dependent on whites. As the 13th Amendment prohibited slavery except as punishment for a crime, many southern businesses began to rely on convict leasing, which allowed private interests to pay the state a small fee to use prison labor. See Talitha L. LeFlouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: University of North Carolina Press, 2015); Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (London: Verso, 1996); Douglas Blackmon, *Slavery by Another Name: The Re-enslavement of Black People in American from the Civil War to World War II* (New York: Doubleday, 2008); and Mary Ellen Curtin, *Black Prisoners and Their World: Alabama, 1865-1900* (Charlottesville: University Press of Virginia, 2000).

<sup>64</sup> These institutions were the Southern Illinois Penitentiary at Chester (now known as Menard Correctional Center), Joliet Penitentiary (closed in 2002), and a facility for young offenders, the Pontiac State Reformatory (now a maximum-security unit for adult males).

and recourse for employer-supervisors and their paroled charges could be advantageous for some ex-prisoners, including those supervised by sympathetic family members or inclined to return to criminal activity upon release. These former prisoners manipulated the strictures placed upon them, forcing prison officials to recalibrate the expansion of carceral power and innovate in their attempts to maintain control over the men and women the government deemed dangerous to the public. Thus, it is crucial to examine the actions of the parolees themselves when tracing the parole system's development.

The combination of an imprecise parole contract and lack of administrative structure also proved detrimental to men and women on parole. Employer-supervisors could interpret vague language within the parole contract to their advantage, and signing a parole agreement imbued those who agreed to supervise paroled prisoners with state power. This flexibility combined with the absence of significant administrative oversight enabled a range of employer-supervisors with a variety of motivations to help shape the early parole system. Some more charitable employer-supervisors, especially those connected to voluntary organizations, wished to make productive citizens out of ex-prisoners and reduce recidivism in the process. Often, these men and women projected class-based understandings of morality and propriety on to paroled prisoners, many of who were unused to operating within middling-class norms. Supervisors frequently relied on moral categories to assess the behavior of the parolees in their care.<sup>65</sup> Other employers signed

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<sup>65</sup> Both Jessica Pliley and Jennifer Fronc detail similar criteria in their recent work. In *Policing Sexuality: The Mann Act and the Making of the FBI*, Pliley notes that the FBI often selected white slave officers based on their conformity to contemporary understandings of respectable masculinity. Moreover, the text of the Mann Act was vague and open to interpretation, leaving white slave officers to define its parameters for themselves based on their personal moral ideals. Like FBI officials' evaluations of white slave officers, Warden McClaughry and other prison officials in Illinois often assessed employer suitability based on investigations of their living conditions, demeanor, and general reputation in their local community. Fronc explores a similar extension of political surveillance through social programs administered by voluntary associations in New York, arguing that the ways in which middle class observers perceived working class life created legal problems for working class people in the Progressive Era. See Jessica R. Pliley, *Policing Sexuality: The Mann Act and the Making of the FBI* (Cambridge: Harvard University

parole supervision contracts to obtain laborers who might work for lower-than-average wages, capitalizing on prejudice against ex-offenders. While states instituted parole laws in part because of the rise of social-scientific understandings of criminality and rehabilitative methods linked to these views, partnerships with private citizens and voluntary organizations wove conceptions of respectability into the institution of parole.

U.S. historians, particularly those interested in questions related to race, labor, sexuality, and criminal justice, have explored the extension of political surveillance through social programs operated by voluntary associations during the Progressive era. Scholars reveal how white, often middle-class administrators and volunteers working with these organizations helped monitor working class city communities and individuals the state marked as deviant or potentially deviant, including sex workers, vagrants, immigrants, and persons of color. These social reformers believed that the quantitative and qualitative data they gathered during observations of city neighborhoods, schools, prisons, and other social groups and institutions “could lead to solutions for any social ill.”<sup>66</sup> Jennifer Fronc examines the archival traces left by Progressive era social research endeavors in New York, turning a critical eye to the materials left by reform organizations. Groups such as the Committee of Fifteen conducted social investigations and used undercover informants from the working class to suppress the sex trade, gambling, miscegenation, and other activities they considered offensive. While these voluntary organizations operated outside of government in their nascence, Fronc argues that they soon partnered with business interests and the state to enforce gendered and racialized boundaries in city communities.<sup>67</sup> Historian Jessica R. Pliley surveys the federal government’s concern with

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Press, 2014) and Jennifer Fronc, *New York Undercover: Private Surveillance in the Progressive Era* (Chicago: University of Chicago Press, 2009).

<sup>66</sup> Pliley, *Policing Sexuality*, 3.

<sup>67</sup> Fronc, *New York Undercover*.

the maintenance of similar boundaries, tracing the work of the Bureau of Investigation as it enforced the 1910 Mann Act, passed to fight the transportation of women across state lines for “immoral purposes.” The Bureau of Investigation’s agents paid community-based white slave officers a small wage to address commercial vice in locales across the country, curtailing the mobility of sex workers and identifying vulnerable girls and young women who could be reformed. Like many men who employed and supervised paroled prisoners in Illinois, these white slave officers were “middle-class, respectable white men who had some standing in the community.”<sup>68</sup> Pliley contends that the actions of these deputized men comprised a significant expansion of federal policing power, just as the employer-supervisors and voluntary association officers in this chapter extended state power over prisoners beyond the walls of the penitentiary.

As the literature on Progressive era Chicago demonstrates, however, federal and state government interests could not always control the social reformers they imbued with state authority. Carol Nackenoff and Kathleen S. Sullivan demonstrate how Chicago activists worked hand-in-hand with government interests to deploy state policing power, but also emphasize how women reformers like Julia Lathrop built their own institutions to solve municipal problems, thus pressuring the state to take on new kinds of public authority.<sup>69</sup> Lathrop and the activists who established and fostered the Juvenile Court in its infancy pushed outside of their state-sanctioned roles in the municipality to force Illinois to address social ills in the metropolis.

This chapter builds upon aspects of what Fronc, Pliley, Nackenoff, Sullivan, and others have observed and argued about public-private partnerships and state formation in the Progressive era. Just as the private citizens who became white slave officers allowed the federal

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<sup>68</sup> Pliley, *Policing Sexuality*, 89.

<sup>69</sup> Carol Nackenoff and Kathleen S. Sullivan, “The House that Julia (and Friends) Built: Networking Chicago’s Juvenile Court,” in *Statebuilding from the Margins: Between Reconstruction and the New Deal* (Philadelphia: University of Pennsylvania Press, 2014), 171-202.

government to police local communities, the Illinois parole system emerged long before the state developed the necessary infrastructure thanks to constantly negotiated relationships between state institutions, private individuals, businesses, and voluntary organizations.<sup>70</sup> But while Pliley's white slave officers extended the Bureau of Investigation's policing power, interactions between employer-supervisors and ex-prisoners outside of the state's purview constituted much of the nascent parole system. Private citizens conducted the surveillance work required to manage paroled men and women as they transitioned to life outside of the penitentiary. While employer-supervisors and social reformers conducting work on behalf of voluntary organizations took up the mantle of state authority, they also interpreted the terms of the early parole agreement on a case-by-case basis. These interpretations and the individual ways in which employer-supervisors used state power shaped the early parole system. As such, the operation of parole in the Progressive era depended on the ways in which individual employer-supervisors used informal systems of assessment and notions of success to evaluate the parolees in their

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<sup>70</sup> Historians of criminal justice have acknowledged the importance of voluntary organizations and private citizens to the early operation of state parole systems. In *Discretionary Justice*, Carolyn Strange highlights the Prison Association of New York's critical role in the formation of the state's discretionary justice policies and references its efforts to aid discharged prisoners as they transitioned back to free society. PANY's Discharged Prisoners Committee boasted of finding jobs and housing for more than a thousand parolees from Elmira Reformatory released between 1877 and 1895. Like this dissertation, Strange's work reveals the gap between reform ideals and criminal justice practice as well as the incorporation of older class and gender-based ideologies into the modern justice system. Her interests, however, lie more with policy evolution and the process of paroling a prisoner from New York institutions in the Progressive era rather than with the relationships between ex-prisoners, the state, businesses, and voluntary organizations necessary to realize the supervisory function of the early parole system. Scholars also demonstrate the opportunities for business and familial interests inherent in early state pardoning and parole practices. Historian Ethan Blue exposes the exploitation of pardoned offenders in Texas, arguing that white plantation owners often agreed to employ formerly incarcerated men and women in order to maintain their control over African American laborers. Cheryl D. Hicks explores a particularly disturbing function of the parole system in New York: the practice of sending African American women prisoners to live and work with relatives in the South. Using records from two New York State reformatories, Hicks also shows how working-class black families relied on the parole system to control the behavior and mannerisms of female ex-prisoners. See Carolyn Strange, *Discretionary Justice: Pardon and Parole in New York from the Revolution to the Depression* (New York: New York University Press, 2016), especially chapter 6; Ethan Blue, *Doing Time in the Depression: Everyday Life in Texas and California Prisons* (New York: New York University Press, 2012); and Cheryl D. Hicks, *Talk With You Like a Woman: African American Women, Justice, and Reform in New York, 1890-1935* (Chapel Hill: The University of North Carolina Press, 2010), especially chapters 8 and 9.

charge. Though the parole system represented innovation on the part of the Illinois state government—a nod to emergent rehabilitative frameworks in penology—the reliance on voluntary organizations and businesses wove older class and gender ideals into this newer, purportedly more scientific and objective institution.

By delving into the archival remnants of relationships between wardens, ex-prisoners, and employers, this chapter examines the often-turbulent translation of turn of the century reform impulses into practice. Ideally, parole systems were supposed to determine when to release those incarcerated under indeterminate sentences, to ensure that they were gainfully employed before releasing them, and to monitor them once they were released. But as underfunded state corrections systems pushed their authority outside prison walls, they realized the policing and supervisory functions of parole through the efforts of private individuals, businesses, and voluntary organizations. To understand the extension of the prison into free society under the auspices of humanitarian reform, historians must look to the agreements brokered between prisons and private citizens as well as the management, experiences, and actions of paroled men and women.

### **Guidelines for Freedom: The Terms of an Early Parole Agreement**

By 1900, five years after the passage of the original Illinois parole legislation, each potential parolee signed a contract agreeing to abide by eight rules intended to guide their transition into capitalist society. Some of these rules prohibited activities like drinking alcohol or spending free time at “improper places of amusement and recreation” that prison officials assumed caused men and women to fall back into criminal pursuits. Others stated the obvious: “He must respect and obey the laws cheerfully, and conduct himself in all respects as a good

citizen.”<sup>71</sup> Most, however, involved the ways the individual on parole should communicate with the penitentiary he or she most likely wished to forget. The contract first compelled released men and women to travel to their place of employment and report to their employer immediately following their discharge from the prison. On arrival, they completed a written report signed by their employer and sent directly to the warden. When employers signed parole papers for a given prisoner, they promised to give that person work for the 12-month period of his or her parole. If the ex-prisoner wished to leave this first employer for a new position, the rules stipulated that they must notify and obtain permission from the Warden. The submission of the arrival report, the subsequent monthly reports required of the parolee, and applications for permission to change employment constituted the bulk of the supervision of parolees conducted directly by penal institutions before a legislative appropriation to the Department of Public Welfare earmarked for the Board of Pardons and Paroles in 1919.<sup>72</sup> From 1899 to 1919, Illinois employed only 9 parole agents to supervise around 2,000 individuals. As mentioned, the original 1895 parole law did not allocate funding for corrections institutions to appoint parole officers, but an 1899 parole law placed one agent at each of the three penitentiaries in Illinois.<sup>73</sup> In order to conduct the actual work of supervising men and women (rather than simply processing reports) agents traveled constantly throughout the state. Due to time and monetary constraints, the agents could not meet face-to-face with most of the individuals paroled from their respective

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<sup>71</sup> Board of Pardons, State of Illinois, “Parole Agreement: Rules Governing Prisoners on Parole,” Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>72</sup> In 1919, the Illinois state legislature made an appropriation of \$194,000 for the year to pay the salaries and travel costs for eleven additional agents. These twenty parole agents also would no longer be assigned to one of three prisons to supervise released men from that specific institution. They would instead supervise all parolees within ten districts in the state of Illinois, which cut down on travel time and expenses. Most of these districts encompassed eight to ten counties, though the geographic expanse of District No. 1 (which included Chicago) was much smaller.

<sup>73</sup> Will Colvin, “After Care,” in *Illinois Parole Law: Accomplishments, Statistical Data, Papers and Addresses on Its Provisions and Its Administration* (Springfield: Department of Public Welfare, 1921), 31. Joliet soon had 5 parole agents, Chester and Pontiac each had 2 agents.

institutions. A report published by the Department of Public Welfare in 1921 asserted that many former inmates paroled between 1899 and 1917 never saw a parole agent during the time they were on parole.<sup>74</sup>

In practice, therefore, employers conducted much of the day-to-day supervision of the ex-prisoner and ensured that he or she adhered to the stipulations set out in the parole agreement. Employers of men and women on parole endorsed monthly reports, which included an accounting of the parolee's finances—how much money they made that month, what they spent, and how much money they had on hand. In addition to these reports, employers often sent their own letters to the warden describing the activities of the paroled prisoner. This occurred most frequently when the former prisoner violated one or more of the rules listed at the top of each parole agreement. Violation of any of the directives listed on the parole agreements could result in immediate arrest and re-incarceration for the remainder of the maximum sentence.

Most parolees likely wished to avoid this, as they probably struggled to meet the conditions for release in the first place. Prior to parole, prisoners needed a written promise of steady work for 12 months and an employer willing to sign parole papers.<sup>75</sup> Here the accounts and motivations get a little murky. While employers were often wary of hiring parolees, others jumped at the chance to sign a parole agreement. Family members who could promise employment often agreed to supervise paroled men and women. Some employers believed they could pay desperate ex-convicts wages below the going market rate. To avoid this kind of exploitation, incarcerated individuals who completed their minimum sentence and were eligible

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<sup>74</sup> Ibid.

<sup>75</sup> Men and women were often paroled to urban areas, partly because farm work was seasonal. In a Sept. 1900 letter to Warden E.J. Murphy, the father of a parolee complained about the difficulty of finding a year round position for his son near the family: "... they will only have about two months of work for a man this fall and then they will not need help untill [sic] next Spring, and as farming is the only kind of employment there is here for a laboring man, I think it will be impossible for me to find employment for him." Ben Olson to Warden E.J. Murphy, Sept. 10, 1900, Penitentiary Mittimus Files, 1857-1916, ISA.



for often asked people they knew on the outside to help them get jobs. Many inmates obtained parole under employers they worked for prior to their arrest. Others enjoyed the support of family members or friends eager to sign their parole papers. The friendless, meanwhile, turned to organizations like the Illinois Industrial Association or the Central Howard Association to help them obtain steady work for fair wages.<sup>76</sup> The Board of Pardons always approved agents of these organizations when they applied to employ paroled prisoners, even if jobs were not necessarily set up for the parolee yet.

Once released, many men and women on parole changed jobs frequently. Sometimes they were fired, or they did not have the skills necessary to perform assigned tasks, but more often their employers simply ran out of things for them to do. This could involve business failure or the cyclical unemployment that accompanied seasonal labor, such as farm work. Parolees also attempted to obtain the warden's permission to change jobs when they were dissatisfied with their work in some way—usually with the wages or with their employer—but without an employer's consent this was a time-consuming process.

### **“A Friendly Interest”: The Evaluation and Role of Employer-Supervisors**

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<sup>76</sup> Reverend A.C. Dodds founded the Illinois Industrial Association to help ex-convicts secure employment years before the state legislature passed indeterminate sentencing and parole laws. Officers of the Association included a bank executive, an ex-judge, and several religious leaders, all of whom routinely signed parole documents assuring prison officials that they would secure employment for paroled prisoners. The Association also operated a broom factory where each released man began his parole period. Once other employment could be found, the paroled man would leave a place vacant for “a brother prisoner who wishe[d] a chance at release and reform.” See “Aid Ticket-o'-Leave Men: Chicago's Unpretentious Charity for Paroled Prisoners,” *Chicago Daily Tribune*, Dec. 6, 1896, p. 25. F. Emory Lyon established the Central Howard Association (CHA) in 1900. The CHA's mission was to “awaken public sentiment in behalf of worthy ex-prisoners... to secure employment for them; to facilitate the organization of local and state prisoners' aid societies” and to keep tabs on the conditions in state corrections facilities. Though the organization's supervision of parolees is not mentioned in its initial mission statement, the CHA quickly stepped into this role. As early as 1901, prison officials and chaplains from Illinois and neighboring states looked to CHA founder F. Emory Lyon to monitor and find jobs for paroled offenders. See “Original Constitution, Amendments, and Minutes of the Central Howard Association, Organized January 5<sup>th</sup>, 1900,” Box 2, ledger, John Howard Association Records, 1898-1976, The Chicago History Museum Research Center (hereinafter CHMRC); A.H. Jessup to F. Emory Lyon, 28 December 1901, Box 17, Folder 1, John Howard Association Records, CHMRC; and “Gives Aid to Ex-Convicts: Central Howard Association Furnishes Employment to 250 in Year Just Ended,” *Chicago Daily Tribune*, Jan. 9, 1904, p. 13.

Employer involvement in the release process began long before the prisoner's first parole board hearing. Once Joliet Penitentiary completed the intake process for a prisoner, an investigation into his or her past began and prison officials sent the information they uncovered to the parole board. Prior to the Department of Public Welfare's institution of parole prediction schemas in 1933, the Board of Pardons evaluated prospective parolees based on a narrow and mostly qualitative data set.<sup>77</sup> The initial information sent to the Board often included the inmate's criminal and prison records; statements from the judge and prosecuting attorney; details of an "examination of the convict" made upon admittance to the institution; a form completed by the inmate detailing the crime for which he or she had been incarcerated; and another form where the inmate could record his or her employment history.<sup>78</sup> From these documents, the Board could conduct its own investigation into a given inmate's past, and it usually began by writing to the prisoner's former employers. The Board of Pardons consisted mostly of part-time political appointees, rendering investigation into an inmate's past difficult, but a few letters could quickly glean information from cooperative former employers. Warden McClaughry endorsed this approach, writing in 1898 that "no one is so apt to know the amount of risk in taking the ex-

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<sup>77</sup> The Illinois state legislature abolished the original Board of Pardons and created the Department of Public Welfare under the auspices of a new Civil Administrative Code in July of 1917. Under this Code, the legislature charged the Department of Welfare with overseeing the Board of Pardons and Paroles. Parole prediction schemas in Illinois used an actuarial method developed by University of Chicago sociologist Ernest W. Burgess to estimate the risk of releasing a given individual.

<sup>78</sup> This intake sheet allowed prison authorities to record many self-reported details about an inmate, including: (1) date the inmate was received; (2) sentence length; (3) crime committed; (4) the county in which the crime was committed; (5) "color," nationality, and nativity; (6) age, height, and weight; (7) whether the inmate used profanity, smoked, chewed tobacco, or drank; (8) condition of the inmate's heart; (9) occupation and employment status when arrested; (10) religious affiliation; (11) marital status and number of children; (12) education level; (13) whether the inmate's associates were "good" or "bad"; (14) names and addresses of correspondents; and (15) nativity of father and mother. These categories are duplicated on each intake sheet from the 1890s to the early 1910s: "Examination of Convict for Harry McNanna No. 5594," July 2, 1897, Penitentiary Mittimus Files, 1857-1916, ISA.

convict as his former employer” and suggested that the Board should be wary of paroling a man or woman who did not make a favorable impression at their former workplace.<sup>79</sup>

Once prisoners became eligible for parole after serving the minimum sentence, employers became an integral part of the release and reentry process. Financial constraints, the scattered location of parolees within Illinois, and large caseloads made it impossible for parole agents to maintain regular contact with the people they were tasked with supervising. Agents left that responsibility to employers. While some bosses attempted to sign parole papers in an effort to obtain cheap and malleable labor, others took their roles in the supervisory process seriously. Indeed, the parole process ensured that employers had an economic stake in coaxing good behavior out of their charges because steady and diligent workers led to greater profit for their businesses.

Before releasing each prisoner, the warden sent Special Officers to evaluate his or her proposed employers. These Special Officers assessed the employer who applied for a prisoner eligible for parole, ideally at the job site where the paroled man or woman would work. Since responsibility for finding employment usually fell to the prisoners approved for supervised release, officers were on the lookout for any suspicious activity on the part of employers. Officers also assessed the neighborhoods in which employers resided to ensure that they did not present recently paroled men and women with illegal temptations that might encourage them to violate the terms of their release agreement. Joliet’s wardens took the recommendations of Special Officers quite seriously in evaluating potential employers. In an assessment of Jerry McIntyre, desirous of hiring James Winston #5061 in 1898, Special Officer Matthew Wilson

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<sup>79</sup> R.W. McLaughry, “The Parole System, As Applied to the State Prisons,” in *Proceedings of the Annual Congress of the National Prison Association of the United States, 1898* (Pittsburg: Shaw Brothers, 1899), 93-4.

McClaughry urged caution.<sup>80</sup> McIntyre's wife told Special Officer McClaughry that her husband worked for the Street Department of the City of Chicago and that she did not know if he had anything to do with hiring new workers for the city.<sup>81</sup> McClaughry also disapproved of McIntyre's neighborhood, writing in his report that "the neighborhood of #83 Aberdeen Street" did not seem "very respectable owing to the numerous houses having signs 'furnished rooms to rent' and appearance of their patrons."<sup>82</sup> The presence of rooms for let in McIntyre's neighborhood indicated that many lower-income, single residents of the city lived there—the kind of potentially disreputable neighbors potentially involved in vice sectors as patrons or providers. Warden Robert W. McClaughry rejected McIntyre's application.

Joliet's warden and some of its Special Officers assessed potential employers based on their conformity to middling class standards of respectability. This was perhaps due in part to the influence of the officials' own, largely middle class, backgrounds.<sup>83</sup> As members of a new professional class of prison administrators and officers, the McClaughry men would have considered their assessments of employers and city environments borne of a combination of commonsense judgment, experience, and understanding of the latest innovations in criminology

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<sup>80</sup> M.W. McClaughry was the son of Joliet's warden, Robert W. McClaughry. He served as a Special Officer at Joliet after working for the Chicago Police Department. Joliet employed McClaughry Jr. before the allocation of funding for parole agents, but he served much the same function and bore the same title as later parole officers. See "Discharged from the Police Force," *Chicago Daily Tribune* Aug. 15, 1897, p. 1.

<sup>81</sup> M.W. McClaughry, "Report of Special Officer," Oct. 11, 1898, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>82</sup> Ibid.

<sup>83</sup> While only the McClaughry family background is detailed here, the two wardens appointed after R.W. McClaughry left Joliet in 1899 touted similar middle-class upbringings, educational backgrounds, and professional experience. Born in Nashville Illinois in 1852 to county Judge William Murphy, Everett Jerome Murphy was warden of Joliet from 1899 to 1913 and 1917-1922. After graduating from high school, Murphy enjoyed a moderately successful political career. He served in the Illinois House of Representatives and was elected as a Republican to the 54<sup>th</sup> U.S. Congress (1895-1897). After Murphy's unsuccessful run for reelection, Governor Tanner appointed him to the state Board of Pardons where he served before accepting his position at Joliet in 1899. Murphy's successor, Edmund M. Allen, possessed "a comfortable fortune inherited from his father" which probably helped to finance his mayoral run in Joliet in 1912. He won, but a month before his term expired Governor Dunne appointed him warden of the penitentiary. Allen resigned after his wife was murdered in her bed at the warden's residence at Joliet. See "Everett J. Murphy, Warden of the Illinois State Penitentiary for Twenty Years, Dies," *Journal of the Illinois State Historical Society* 15 (1922-1923): 558-559 and "Allen Father of Many Reforms in State Prison," *Chicago Daily Tribune*, June 21, 1915, p. 2.

and penology. Born to a prosperous farming family in 1839, Robert W. McClaughry grew up in Illinois and attended Monmouth College as a young adult.<sup>84</sup> He was appointed Warden of the Illinois State Penitentiary at Joliet in July of 1874 and pushed the institution into the national spotlight with his dedication to the “reformation of criminals and their restoration to society.”<sup>85</sup> As Warden, Robert McClaughry was the subject of glowing profiles in newspapers and magazines throughout the country and even received accolades from former President Rutherford B. Hayes upon his first departure from Joliet in 1888.<sup>86</sup> Among other innovations made during his first stint as warden, McClaughry instituted the Bertillon system of criminal identification and agitated for the separation of first-time offenders from more seasoned prisoners. After leaving Joliet, the former warden worked for a short time as superintendent of a reformatory in Pennsylvania before returning to Illinois in 1891 to serve as Chicago’s Chief of Police.<sup>87</sup> When McClaughry senior accepted the title of Warden of Joliet once again in 1897, he was firmly established among an emergent class of professional prison wardens—men who “presented themselves as professionals by emphasizing their expertise and their connections to national networks” of fellow prison officials.<sup>88</sup> Three of McClaughry’s sons followed their father into the field of corrections and two accepted jobs at Joliet soon after their father returned to

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<sup>84</sup> Later in life, McClaughry traced his family history back to the American Revolution, providing the required documentation to join the Sons of the American Revolution in 1893.

<sup>85</sup> “Practical Prison Reform,” *The Daily Inter-Ocean*, March 18, 1891, p. 4.

<sup>86</sup> President Hayes commended McClaughry senior for his tireless labor at Joliet “which [had] done so much to elevate the science and progress of prison reform.” Franz Amberg and Omar H. Wright, Commissioners, “Prison Reformers,” *Daily Inter-Ocean*, Nov. 24, 1888.

<sup>87</sup> “Chicago’s Chief of Police,” *The Milwaukee Journal*, May 18, 1891, p. 2. As warden, McClaughry introduced the good-time allowance at Joliet, a popular prison management technique soon adopted by penitentiaries across the United States.

<sup>88</sup> Ashley T. Rubin, “Professionalizing Prison: Primitive Professionalization and the Administrative Defense of Eastern State Penitentiary, 1829-1879,” *Law and Social Inquiry* 43 no. 1 (Winter 2018): 184. Rubin’s article challenges the theory that professionalization “requires large-scale, field-wide organization” and argues that Eastern State Penitentiary administrators professionalized prior to the 1890s despite the fact that they did not exhibit traditional markers of professionalization. These markers include college education, specialized training, and national affiliations—all identifying characteristics that apply to Warden McClaughry, Matthew W. McClaughry, and Warden Everett J. Murphy.

head the institution for a second time.<sup>89</sup> Special Officer Matthew W. McClaughry shared his father's interest in criminal identification technology and became well-versed in the Bertillon system of identification before studying fingerprinting with an expert from Scotland Yard.<sup>90</sup> Warden McClaughry and his sons positioned themselves as advocates for parole throughout the country, provided that nascent parole systems functioned on a "scientific basis—the unimpassioned investigation and conclusion that there is a reasonable probability that the prisoner" would make good upon release given his or her background and employment prospects.<sup>91</sup>

This emergent class of professional prison administrators had more to consider in their investigations than how each prospective employer measured up to their internalized standards of respectability—they also needed to ensure that employers would treat paroled men and women fairly. Wardens and the Board of Pardons quickly discovered that overworked and underpaid parolees were most likely to return to the penitentiary because they had violated the terms of their parole agreement or committed a new crime out of desperation. While many prospective parolees like James Winston wrote to trusted former employers to find positions for the duration of their parole period, other prisoners did not have such contacts. These lonely inmates either waited for employment from a charitable organization or were sent to an employer who wrote to Joliet to request laborers. For instance, a man from Grinnell wrote Warden McClaughry to

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<sup>89</sup> Charles Chase McClaughry worked for his father in 1887 as master mechanic and chief engineer at Joliet before moving to the Chicago House of Correction as deputy superintendent. In 1899 he became warden of the Wisconsin State Penitentiary in Madison. When McClaughry senior returned to Joliet in 1897 he employed his sons Arthur Cooper and Matthew Wilson, as private secretary to the warden and Special Officer to the penitentiary, respectively. See "Charles Chase McClaughry," *The Annals of Iowa* 16 (1927): 76 and *Report of the Commissioners of the Illinois State Penitentiary at Joliet for the Two Years Ending September 30, 1898* (Springfield, State Printers, 1899).

<sup>90</sup> T.H. McMichael, "Robert Wilson McClaughry, 1839-1920," *Journal of the Illinois State Historical Society* 13:4 (Jan. 1921): 605.

<sup>91</sup> R.W. McClaughry, "The Parole System," 92.



*Figure 4 Mugshot of Myrtle Farman, sentenced from one year to life for manslaughter in 1896 and paroled from Joliet in 1899.*

inquire if he could employ a woman from Joliet for the duration of her parole to assist in his housework. McClaughry's reply included an application for the parole of Myrtle Farman, who could be released "as soon as suitable employment is secured."<sup>92</sup>

The Grinnell man would need to pass muster with a Special Officer before the warden

could parole Farman.

Some employment opportunities were easy for the warden to sign off on, such as offers from established charitable organizations. Dr. John Harvey Kellogg, one of the founding fathers of the breakfast cereal industry and the head of the nationally famous Battle Creek Sanitarium in Michigan, contacted Warden McClaughry to inform him that the Sanitarium regularly employed parolees on two of the farms that provided foodstuffs for patients. A member of the Seventh Day Adventist Church, Kellogg practiced what he called "medical missionary" work at Chicago city missions, Battle Creek, and elsewhere. Lending a hand to those he considered "down-and-outers" became a part of his religious expression. In an 1896 speech at Northwestern University, Kellogg spoke of poverty and homelessness in medicalized terms and asserted paternalistically that, "the destitute man is always a sick man" in need of "brotherly kindness, encouragement, and instruction."<sup>93</sup> Kellogg professed to offer these farm jobs out of a desire to facilitate the

<sup>92</sup> R.W. McClaughry to Unknown, Dec. 3, 1898, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>93</sup> Dr. John H. Kellogg and his brother Will Keith Kellogg are best known today as the inventors of breakfast cereal. Dr. Kellogg as quoted in "The Workingmen's Home," *Medical Missionary* VI (Oct., 1896), 299, excerpted in Richard W. Schwarz, "Dr. John Harvey Kellogg as a Social Gospel Practitioner," *Journal of the Illinois State Historical Society* 57:1 (Spring 1964), 6.

rehabilitation of released prisoners, as he indicated that these positions often acted as a “stepping stone for something better.”<sup>94</sup>

Voluntary associations and philanthropists like Kellogg could not provide all friendless prisoners with a reliable employer willing to sign their parole agreement. Many inmates desperate for release and estranged from family members or former employers struggled to find warden-approved positions. One disgruntled prisoner convicted of the theft of \$2.40 wrote the Board of Pardons in 1898 to request assistance, indicating that he held “the opinion that something more” could be done to assist him.<sup>95</sup> Thomas Donovan served two years in Joliet and when granted parole in October of 1897, the warden suggested that he should contact the Reverend A.C. Dodds of the Illinois Industrial Association to secure viable employment. Dodds did not reply to Donovan’s letters, nothing materialized, and Donovan had no friends to help him find a position. He stayed in Joliet, stewing, as men locked away “for more than I was” were released after serving only a year in prison.<sup>96</sup> When “99 men out of a hundred” refused to “sign a parole to give a man work that comes out of prison,” wardens and inmates had to get creative.<sup>97</sup> And employers found themselves with chances to game the system.

### **Risky Business: Employers and the Exploitation of Ex-Prisoners**

For some employers, the parole system meant an opportunity to hire laborers who could be compelled to work for lower-than-average wages. This opportunity, though, was not without its drawbacks. The yearlong commitment required in the parole contract must have seemed daunting for farmers and other business owners who tended to hire seasonal workers. In urban areas, some industries were infamous for irregular employment cycles— Chicago’s meat and

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<sup>94</sup> J.H. Kellogg to R.W. McClaghry, July 21, 1898, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>95</sup> Thomas Donovan to Illinois State Board of Pardons, Aug. 14, 1898, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>96</sup> Ibid.

<sup>97</sup> Thomas Donohue to Warden E.J. Murphy, Jan. 29, 1900, in Penitentiary Mittimus Files, 1857-1916, ISA.



pork plants often laid off thousands of workers for two or three months per year.<sup>98</sup> Employers balked at offering jobs to paroled men and women they had never met, perhaps worrying that they might be more likely to dip into the company coffers or leave without giving notice. Besides, the parole agreement contractually tasked employers with keeping closer watch on parolees than would have been necessary for an ordinary employee. Those offering jobs to prospective parolees did not have to house them or record their movements, but they did sign papers indicating that they would: watch over the paroled individual, “counsel and direct” them in “that which is good,” and report any violation of the parole law, in addition to any absences from work or associations with “low and evil” persons.<sup>99</sup>

While some might have been leery of these conditions, other employers signed many similar agreements, hiring several parolees over a short period of time. A few of these supervisors, like Dr. Kellogg at Battle Creek Sanitarium, perhaps intended for men and women to move on quickly and transfer the responsibility of parole to another employer who might pay them higher wages. This was also the case with heads of voluntary organizations like Reverend Dodds and the Central Howard Association’s F. Emory Lyon. Others, though, applied for supervision of parolees they intended to underpay and overwork. Bound by parole agreements and marked by criminal records, these men and women experienced greater difficulty leaving exploitative positions for better job opportunities. Despite behavioral restrictions and ties to employers, however, there were many ways in which parolees were able to work within the system even when facing abuse from police or employers.

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<sup>98</sup> Robert A. Slayton, *Back of the Yards: The Making of a Local Democracy* (Chicago: The University of Chicago Press, 1986), 89-90.

<sup>99</sup> “To the Proposed Employer” (in this case, W.H. Wright), Apr. 19, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA.

In the spring and summer of 1905, a flurry of letters addressed to Warden Everett J. Murphy arrived at Joliet, including one by ex-convict Frank Morris. Morris wrote to express discontent with the actions of the employer who signed his parole papers. Morris believed that W.H. Wright had “faled [sic] to keep his word,” and that he had not abided by the terms of the contract he signed with the penitentiary. Warden Murphy likely distrusted Morris—who had already been returned from parole two times—but Morris claimed that he felt “determined to do what is right and work for an honest living.”<sup>100</sup>

It is unlikely that Morris and Wright knew one another before Morris was paroled. Morris failed to abide by parole agreements twice before 1905, which likely meant that he could not find a position with his previous employers. Shortly after Morris’ inquiry, Wright wrote to assure the prisoner of his new opportunity to make good, promising to assist Morris in any way he could to set him back on the path to productive citizenship.<sup>101</sup> But when he signed Morris’ parole agreement, he agreed to pay the ex-prisoner only \$7.50 per month plus board. He recognized that this was a small amount of money unlikely to satisfy the warden, so he scrawled a note underneath the number: “If he is a good man... I will pay him more. I will do the fair thing with him.”<sup>102</sup>

Though Wright eventually agreed to pay Morris \$15.00 per month, conflict over fair wages continued, prompting Morris to complain of unfair treatment.<sup>103</sup> Soon after Morris’ arrival in Danville, he wrote to Warden Murphy to inform him that Wright was withholding his wages. Morris also alleged that his employer hired him out to other businessmen in the community and

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<sup>100</sup> Frank Morris to Warden E.J. Murphy, May 21, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA. Morris’s real name was Frank Mara.

<sup>101</sup> W.H. Wright to Frank Morris, Feb. 23, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>102</sup> “To the Proposed Employer,” Apr. 19, 1905, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>103</sup> Warden E.J. Murphy to Frank Morris, May 22, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA.

illegally pocketed the payment Morris received for this outside work. When Warden Murphy responded to Morris' initial complaint, he requested proof. In reply, Morris suggested that the Joliet warden write to the Southern Illinois Penitentiary at Chester, "where Mr. Wright got 4 men out and ask the warden what became of them."<sup>104</sup> These four men perhaps complained to Chester's warden about the work Wright required of them and the low wages they received for their labor. Or maybe they simply disappeared, skipping town to reinvent themselves, look for higher paying jobs, or seek out better living conditions. Subsequently, Chester's warden barred Wright from signing parole contracts to employ any additional ex-offenders. Morris theorized that Wright then turned to Joliet for a new source of inexpensive laborers, lamenting to Warden Murphy in a lengthy epistle that he was a "poor unfortunate" who fell "victim" to Wright's schemes.<sup>105</sup> According to Morris, Wright defined parole as an extended form of punishment for men who had been in prison, and claimed that parolees worked for lower-than-average wages for one year as a way to pay their debts to society.<sup>106</sup> While there is no way to assess the veracity of these claims, Wright himself admitted to paroling at least two men from Chester at very low wages. He also informed Warden Murphy that he would withhold Morris' wages until the parolee could prove himself trustworthy.<sup>107</sup> As Morris would have been sent back to Joliet if he left Wright without permission from Murphy, the ex-prisoner was stuck until he could convince

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<sup>104</sup> Frank Morris to Warden E.J. Murphy, July 11, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>105</sup> Frank Morris to Warden E.J. Murphy, July 11, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>106</sup> Ibid.

<sup>107</sup> W.H. Wright to Warden E.J. Murphy, May 21, 1905, in Penitentiary Mittimus Files, 1857-1916, ISA. Wright wrote that he paid Morris \$10 for over one month of work but that he did not want to give him all of his wages until he ascertained if Morris would stay and work for him. Wright further stated that in the past when he employed a parolee from Chester, the man stole money from him and fled to Canada after only a month of work. The practice of withholding wages from parolees was relatively common, and can also be seen in the case of Myrtle Farman, paroled in 1899, and Henry Greenwood, paroled in Apr. of 1898.

the warden that employment under Wright was intolerable. Fortunately for Morris, Murphy sensed a flight risk and transferred him after three months.<sup>108</sup>

While Morris convinced the warden to allow him to leave Wright's employ and continue his parole, others could not stand the indignity of low wages, restrictions on their movements, and the supervision of bosses who took advantage of them. Often, the experience of working for demanding or abusive bosses became too onerous to bear. Between 1895 and 1910, 289 men and women out of 783 captured parole violators were sent back to Joliet for leaving their employers without permission.<sup>109</sup> Many parolees who left their employers probably did have cause to complain, as employers often paid laborers on parole less for their work than the national average wage for their industries. For example, a man paroled in 1899 received \$6.85 per week, or roughly \$356 per year, for his work in a shop that made drill bits and other tools. The average yearly wage for a laborer working in manufacturing was \$412.<sup>110</sup> While the average worker in the gas and electricity industry made \$620 in 1900, the American Electrical Company hired paroled man John Rice for \$1.20 per day. If he worked six days per week every week in 1900, he would only have made \$374 that year. A significant wage gap also existed between paroled farm workers and non-paroled farm workers. Paroled farmworker Edwin Holt made \$8 per month in 1898. In a letter to the warden, Holt wrote that he worked for a "nice man" who treated him well, but he expressed concern that his parole prevented him from earning more and complained that other farm laborers nearby brought in around \$22 per month.<sup>111</sup> Parolees employed in white-collar positions, such as clerking, also earned wages lower than the national average. In 1900, the

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<sup>108</sup> Under Rodgers, Morris made 30 cents per hour—or about \$15.00 per week.

<sup>109</sup> Harrison, et al., *Report of the Commissioners of the Illinois State Penitentiary at Joliet For the Two Years Ending Sept. 30, 1910*, 67.

<sup>110</sup> Robert A. Margo, "Table Ba4320-4334- Annual earnings in selected industries and occupations: 1890-1926," in *Historical Statistics of the United States*, Millennial Edition Online, ed. Susan B. Carter et al. (Cambridge University Press, 2006): 2-271.

<sup>111</sup> Edwin R. Holt to Warden McClaughry, Feb. 16, 1898, Penitentiary Mittimus Files, 1857-1916, ISA.

L.C. Krueger Company, Building Raisers and Movers hired parolee Louis Marshall as a clerk for \$12 per week.<sup>112</sup> Assuming Marshall worked every week that year, he could make only \$624, a sum \$387 less than the national average of \$1,011 per year for those in clerking positions.<sup>113</sup>

### **“To Maintain and Protect Her”<sup>114</sup>: Women and Parole Supervision**

While men on parole struggled to navigate new workplaces, paroled women usually returned from the institution to their own households or the homes of relatives. The supervisory structures created by parole imbued the (usually) male head of the house with still more authority than that already granted him by traditional patriarchal norms. As such, the experiences of women on parole in the early years of the system’s evolution were generally quite different than those of men. This held true even for single women who entered into employment, rather than familial, relationships. Women made up a small fraction of the prison population in the early 20th century: in 1910, Joliet’s population hovered around 1,500 from month to month, but the institution only held around 60 women at any given time that year.<sup>115</sup> While women were a tiny population within the state prison system, their experiences on parole provide insight into the intentions and policing strategies of progressive officials who supported indeterminate sentencing.<sup>116</sup>

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<sup>112</sup> “To the Proposed Employer” (L.C. Krueger), June 7, 1900, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>113</sup> Margo, “Annual earnings in selected industries,” 2-271.

<sup>114</sup> Gus Jordan to The Board of Commissioners of the Illinois State Penitentiary, Dec. 22, 1897, Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>115</sup> Using these numbers, women made up about 0.4 percent of Joliet’s population in the year 1910. This percentage is close to the number of women accounted for in the 1914 report. See John H. Harrison, Joseph De Silva, and Van L. Hampton, *Report of the Commissioners of the Illinois State Penitentiary at Joliet For the Two Years Ending Sept. 30, 1910* (Springfield: Illinois State Journal Co., State Printers, 1912), 64; James J. McGrath, Ralph R. Tilton, C.W. Faltz, *Report of the Commissioners of the Illinois State Penitentiary at Joliet for the Two Years Ending September 30, 1914* (Springfield: Schnepp and Barnes, State Printers, 1915), 63.

<sup>116</sup> For information on women’s parole from Illinois institutions in the 1920s and 1930s, see L. Mara Dodge, *“Whores and Thieves of the Worst Kind”: A Study of Women, Crime, and Prisons, 1835-2000* (Dekalb: Northern Illinois University Press, 2002), Chapter 11. Dodge’s study is especially rich due to the inclusion of research from Joliet and Dwight’s institutional jackets. These are now restricted under the Mental Health and Developmental Disabilities Confidentiality Act (740 ICLS 110), a law designed to protect records and communications created during the provision of mental health services.

Men who signed parole agreements promising to supervise and employ female relatives acquired significant state-sanctioned power over them. Wardens expected the grandfathers, fathers, brothers, uncles, cousins, and husbands who signed parole agreements to report not only on the paroled woman's diligence, ability, and attendance at work, but also on her adherence to certain emotional, sexual, and moral standards. Female prisoners paroled to un-related employers found that state agents imposed a regime of discipline designed to monitor their morality and sexuality. While men were most likely to receive admonition from Special Officers and wardens for switching employment without notice, the consumption of alcohol, or general idleness, warnings issued to women usually concerned behavior towards male relatives, "inappropriate" emotional reactions, and sexual practices.

Available records for women paroled from Joliet indicate that most entered domestic service positions where they earned wages, or labored for room and board. Women compensated with room and board rather than monetary wages were usually those released to the care of family members, like Mrs. Florence Margette, paroled to perform general housework for her brother. The brother agreed to provide Margette with "such money necessary for her proper care," but did not indicate that she would receive regular compensation for her labor.<sup>117</sup> By contrast, Nettie Austin, the 24-year-old wife of fellow Joliet inmate William A. Brown, did housework for contractor Arthur R. Clark at \$1.00 per week. Clark indicated on his application that he would not have full charge of Austin—rather, Brown's father would provide "aid and assistance."<sup>118</sup>

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<sup>117</sup> Edward S. Fuller to the Board of Commissioners of the Illinois State Penitentiary, June 28, 1897, in Penitentiary Mitimus Files, 1857-1916, ISA.

<sup>118</sup> A.R. Clark to the Board of Commissioners of the Illinois State Penitentiary, June 14, 1897, in Penitentiary Mitimus Files, 1857-1916, ISA.

Clark, though, felt empowered by the institution of parole to police Nettie Austin's private life. He hired Austin and her husband in 1897. Brown received \$5.00 per week for "general work about buildings." After nearly a year, just as Clark expected the board to send discharge papers for the couple, Brown violated his parole agreement by skipping town. The paroled man soon returned, however, and blamed his mistake on his young wife's behavior. As Clark described it, Brown's depression and despair over the state of his marriage caused him to run away. The young man apparently understood that this was a violation of his parole agreement but did "not care what became of him." He told Clark that he could not see any way to reform while still tied to Nettie Austin and thought that his only option was to leave and start a new life without her. He begged Clark to intervene with the warden so that he would not be punished for leaving town without permission. Clark obliged, writing to Warden Murphy that Austin caused Brown's "down-fall" by first causing him to commit the crime that sent him to Joliet in the first place and later making it impossible for him to abide by the terms of his parole agreement.<sup>119</sup> Brown's father and a number of his friends also wrote to blame his delinquency on the "degraded" Austin.<sup>120</sup> Though other community members praised Austin, parole agents returned her to the penitentiary after receiving Clark's message and a barely legible letter from someone accusing Austin of sending "one man to the Grave" and another to prison before engaging in sex work in a house of ill fame.<sup>121</sup> As Austin's case shows, assumptions officers made concerning a woman's "respectability, reputation, and moral character" often determined her experience on parole.<sup>122</sup> Penitentiary officials did not bother to investigate any of these

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<sup>119</sup> Arthur R. Clark to Warden E.J. Murphy, Jan. 20, 1903, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>120</sup> Ibid.

<sup>121</sup> See Gemmill & Foell to W.S. Green, Parole Agent, Illinois State Penitentiary, Nov. 23, 1900, in Penitentiary Mittimus Files, 1857-1916, ISA. Illegible to "The Agent of Paroled Prisoners of the State of Illinois," Aug. 25, 1901, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>122</sup> Dodge, *"Whores and Thieves of the Worst Kind,"* 121.

claims before bringing Austin back to prison—mere rumors of her conduct combined with her employer’s assessment were all the evidence they needed. Exhibiting a gendered double standard, the Board permitted Brown to resume his parole after the period of delinquency his friends blamed on Austin.

Prison officials often intervened at the behest of employer-supervisors when they had cause to question a paroled woman’s behavior or rumored behavior. Actions as seemingly benign as taking a job outside the home, visiting a saloon, or entering a dwelling house alone with an unmarried man could be cause for intrusion into a woman’s personal life. These interventions betrayed employer-supervisors’ understandings of morality, deeply rooted in their ethnicity, gender, and class background. Working-class understandings of respectable womanhood often ran contrary to values held by middle-class reformers. A working-class woman’s view of the world was mediated by her relationships with female neighbors, forged by exchanging local news and gossip about neighborhood scandals, native ne’er-do-wells, and wayward children. Groups of women recalled wrongdoing and insults, shared their stories of cheats and blackguards, and ultimately engaged in a continual process of defining right and wrong. Social theorists demonstrate that these interactions are far from innocuous. Rather, they authorize one set of truths that make “certain acts and behaviors understandable to some, while incredible and even inconceivable to others.”<sup>123</sup> For working-class women and new immigrants, this comprised a negotiated set of beliefs that influenced their way of being in the world—a way of being that greatly worried middle-class employers and reformers like Wardens McClaughry and Murphy

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<sup>123</sup> Ardis Cameron, “Landscapes of Subterfuge: Working-Class Neighborhoods and Immigrant Women,” in *Gender, Class, Race, and Reform in the Progressive Era* ed. Noralee Frankel and Nancy S. Dye (Lexington: The University Press of Kentucky, 2015), 62, Project MUSE. Cameron cites Robert Darnton’s *The Great Cat Massacre: And Other Episodes in French Cultural History* (New York: Basic Books, 1984) and Michel Foucault’s *The Order of Things: An Archaeology of the Human Sciences* (New York: Random House, 1970). To these, I would add Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973).



and ultimately shaped the parole agreement. At the turn of the twentieth century, working class women frequented dance halls, saloons, and cabarets in urban areas, experimented with their sexuality, and enjoyed inexpensive forms of public entertainment like vaudeville and moving picture shows. These women were active participants in public life “as workers and consumers” in a way native-born, white, middle-class prison officials and members of prisoner aid organizations did not comprehend.<sup>124</sup> Reformers saw working-class leisure activities, courtship behaviors, and women’s employment both inside and outside of the home as a sign of loosening morals. They interpreted these actions as a transgression of the white American woman’s role as a respectable, morally irreproachable housewife.

Husbands, fathers, and brothers could exploit these biased assessments, as they recognized parole agents and wardens as persons with power over their paroled wives’ movements, employment choices, and sexuality. Men who signed parole agreements or who married female ex-offenders sometimes used these officials to help curb the behavior of the women in their charge. Moreover, wardens and parole agents often attempted to intervene in paroled women’s relationships, as they could use their authority to return women to the penitentiary as leverage. Rosella Soots, convicted of bigamy in 1896, faced opposition from officials who attempted to prevent her from marrying Gus Jordan after she was paroled in 1897.<sup>125</sup> In his reply to an inquiry sent by Rosella’s employer, Warden McClaughry wrote that he

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<sup>124</sup> Fronc, *Undercover*, 64. For instance, Fronc shows that behaviors anti-vice organizations considered scandalous, such as women visiting saloons without male chaperones, were widely accepted in many immigrant and working-class neighborhoods.

<sup>125</sup> Moving from one marriage to another without divorce was fairly common in 19<sup>th</sup> century America even as the licensing and regulation of nuptials increased. The federal government became especially concerned with bigamy after the Civil War. Former soldiers and their widows applied for pensions and Pension Bureau examiners found themselves faced with sorting through tangled family histories. Some bigamists went to great lengths to hide their marriage histories, creating new identities for themselves as they moved from spouse to spouse. Some simply moved to faraway cities and towns, posed as single widows or widowers, and married new partners. Others relied on simplicity, telling new love interests that they were free from former spouses without elaboration. Many men and women believed that lengthy separations from spouses automatically counted as divorce. See Beverly Schwartzberg,

was unsure if she was able to wed anyone “without committing again the same crime for which she was sent here,” and further, that he did not think that Jordan could support himself.<sup>126</sup>

McClaughry ordered Soots to complete one year on parole, obtain her final discharge, and then marry. Soots presumably considered one year an unreasonable amount of time, and married Gus Jordan in Decatur without permission.

An exasperated McClaughry considered bringing Soots back to Joliet, but instead transferred Soots’ parole to her new husband. By the summer of 1898, however, Soots had left her husband and a disgruntled Jordan wrote to McClaughry to request his help. During the months after the marriage, Jordan dutifully signed Soots’ parole reports, but he now asked McClaughry to arrest Soots because she was “conducting herself improperly” and “running around town with other fellers.”<sup>127</sup> Jordan trusted that his report of Soots’ activities, which included socializing with men without her husband’s supervision, indicated Soots’ willful rejection of the conditions of her parole. Perhaps Jordan read the portion of Soots’ parole contract specifying that she must “avoid evil associations and improper places of amusement.”<sup>128</sup> Rather than replying to Jordan, the warden consulted the Decatur Chief of Police. Chief Mason

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“‘Lots of Them Did That’: Desertion, Bigamy, and Marital Fluidity in Late Nineteenth-Century America,” *Journal of Social History* 37:3 (Spring 2004): 573-600.

<sup>126</sup> Warden R.W. McClaughry to Oliver T. Achison, Dec. 21, 1897, in Penitentiary Mittimus Files, 1857-1916, ISA. Control over marriages through legal regulation and other more informal processes (like McClaughry’s implicit warning to Soots) gave Progressive reformers an opportunity to shape the boundaries of membership and participation in civic society. These limits included the “norms and practices of American citizenship as well as what was understood to be the genetic capacity for citizenship.” Marriage laws developed during the period signify an effort to protect stable marital unions and promote eugenically desirable families—that is, control biological reproduction to produce a citizenry capable of fulfilling the civic duties demanded by the nation. The basis for these “fit” families was the union of monogamous white American or assimilated immigrant couples. See Priscilla Yamin, “The Search for Marital Order: Civic Membership and the Politics of Marriage in the Progressive Era,” *Polity* 41:1 (Jan., 2009): 87.

<sup>127</sup> Warden R.W. McClaughry to the Chief of Police at Decatur, Aug. 26, 1898, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>128</sup> Board of Pardons, “Parole Agreement,” Penitentiary Mittimus Files, 1857-1916, ISA.

wrote back in August that he did not know of “a more worthless man” than Rosella’s husband.<sup>129</sup> Mason recommended, however, that the warden hold off acting on Jordan’s plea for Soots’ arrest, as he “took very little stock in anything he [Jordan] might say about the woman.”<sup>130</sup> Rosella Soots was illiterate, unable even to sign her name to her parole reports, and neither the warden nor the police chief bothered to contact her when considering whether or not to return her to Joliet. Perhaps Jordan’s complaint about his wife was routine—and the question of his reputation mattered more than asking Rosella Soots to tell her story.

### **Gaming the System: A Delinquent Avoids Arrest**

Unlike the illiterate Soots, who could not weigh in as the warden determined her fate, well-educated men on parole often used the leeway inherent in the system of parole supervision to their advantage, much to the chagrin of their employers. Just as frequently, though, employers or agents of voluntary organizations contacted the warden with information regarding a man’s delinquency. Aside from the commission of a crime while on parole, parole agents most often arrested and transported paroled men back to the penitentiary for poor job performance or idleness reported by their employers. As Superintendent of the Illinois Industrial Association, Reverend A.C. Dodds often found himself writing to Warden McClaughry to notify him of an ex-convict’s delinquency. Charles S. Bain (alias Charles Wilson) caused Reverend Dodds more trouble than many of the parole cases he shouldered as Superintendent. As mentioned in the introduction, Bain appeared more likely to make good on parole than most men in Joliet. But following his parole in May of 1898, Bain lost seven different jobs in his first three weeks in free society before pretending to canvas for books as a cover for his daily regime of naps and bicycle

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<sup>129</sup> W.W. Mason, Chief of Police, to Warden R.W. McClaughry, Aug. 27, 1898, in Penitentiary Mittimus Files, 1857-1916, ISA.

<sup>130</sup> Ibid.

rides. An exasperated Dodds wrote to Warden McClaughry recounting Bain's deception, calling the Scottish immigrant "a brilliant and successful liar."<sup>131</sup> Bain remained on the streets despite Dodd's assessment.

The Warden perhaps concluded that it was not worth his time and expense to arrest and re-imprison Bain, given that his initial crime was a nonviolent one. As a college educated ex-convict among a majority of common-school educated parolees, though, Bain possessed several advantages in the highly subjective parole system. It is crucial to remember here exactly how much weight the Warden's opinion carried in parole cases: while the Board of Pardons approved or rejected initial applications for parole, the Warden issued orders for the arrest of delinquent parolees.<sup>132</sup> These warrants were not often issued in cases where the ex-prisoner missed work once or changed jobs without notifying the warden. For cases in which the parolee failed to send in monthly reports, was arrested on new charges, left town, consumed alcohol, or continually skipped out on work, arrest and re-incarceration was a common form of recourse. Bain's offenses seemed chiefly to consist of changing jobs without notice and of periods of unemployment.

After a few months on parole, Bain found himself pleading for the continuation of his freedom despite his inability to hold a job and his penchant for languorous afternoons on his fellow boarder's bicycle. Bain recognized that sending in his report to indicate that he changed jobs more than a few times might cause his return to the penitentiary. But unlike most parolees, Bain was a skilled wordsmith. Along with his parole report for the period during which he exhibited delinquent behavior, he sent an elegantly written letter, claiming that he recently

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<sup>131</sup> Ibid.

<sup>132</sup> Many examples of orders for the arrest of paroled prisoners can be found in the Illinois State Archives. One such example is the order for the arrest of John Enerlick: Illinois State Penitentiary, Joliet, "Order for Arrest of Paroled Prisoner," Apr. 27, 1904, in Penitentiary Mittimus Files, 1857-1916, ISA.

obtained permanent employment and begging the warden to give him a second chance. Bain acknowledged that he “behaved very foolishly” and associated with disreputable men while on parole. He expressed remorse for his actions, assuring the warden that he was “not wholly evil believe me,” but that he was “easily led.”<sup>133</sup> Perhaps he believed that these claims allowed him to shift part of the blame for his idleness. Or maybe this admission about his natural inclination to follow his peers—and in doing so, fall into bad behavior—simply enabled Bain to argue that he would make good provided he kept away from “evil companions and bad places.”<sup>134</sup> With rhetorical flourish that may have served as a nudge towards leniency for the warden, Bain acknowledged that he might “feel that perhaps these promises are mere words” but asked him to accept the assurance that “I will try to behave from this on.”<sup>135</sup> This flowery prose and Bain’s elegant penmanship surely stood out to Warden McClaughry, a man used to receiving letters peppered with crossed out words and misspellings from men who only made it past a few grades in common school before dropping out for factory work or farming. Bain’s ethnicity, social class, inherited wealth, and education would have helped to disarm McClaughry senior, who would not have seen Bain as part of the class of “habitual” or “professional” criminals to be locked away forever.

## **Conclusion**

The regime of surveillance developed under the early years of the parole system was characterized by both cooperation and conflict between those ostensibly responsible for the rehabilitation and reentry of ex-prisoners, on the one hand, and the individuals from voluntary

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<sup>133</sup> Charles S. Bain to Warden [Murphy or McClaughry], Aug. 8, 1898, in Penitentiary Mitimus Files, 1857-1916, ISA.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

organizations, businesses, and local law enforcement who actually watched over parolees, on the other. Illinois passed parole legislation without funding and without bureaucratic infrastructure necessary for the operation of a state-run system. Whenever possible, prison officials vetted the employers and representatives of voluntary associations responsible for the day-to-day requirements of the parole system based on their own understandings of respectability. Officials scrutinized the neighborhoods potential supervisors lived in, the businesses they engaged in, the people they associated with, and local gossip to gauge their ability to supervise and guide paroled men and women. Those employers who kept close watch on their paroled workers engaged in a similar evaluative process to determine their charge's progress. Thus, employers' moral judgment, classist assumptions, and xenophobia colored their supervisory relationships with paroled prisoners and influenced their use and abuse of the prison's policing power.

As a consequence, the parole system relied from the beginning on long-established, more informal systems of assessment and notions of "success." These informal evaluation systems would later receive a gloss of objectivity as parole fell out of favor in the 1920s. Following a very public scandal involving the alleged sale of pardons and paroles, Illinois Governor Lennington Small appointed social scientists to analyze the qualitative and quantitative data collected by prison officials, parole agents, and employers over the previous decades. These academics believed that details culled from past intake records, letters, reports from parole agents, and other documents could reveal the makeup of a successful potential parolee and show why another might fail. As this chapter has shown, however, standards for "making good" changed on a case-by-case basis. In their attempt to develop a prognostic scoring process to determine release dates for each inmate, researchers perpetuated the classism, sexism, xenophobia and, increasingly—with the advent of the Great Migration—racism inherent in the

methods of evaluation that employer-supervisors, wardens, and parole agents used to assess parolees. Despite actuarial prediction's claim to objectivity, the statistical model developed and employed by the Illinois parole system legitimized the Board's assumptions that white, wealthy, and well-connected prisoners were more likely to succeed on parole. Familiar, value-driven class and gender-based ideals thus formed the marrow of purportedly objective and scientific innovations in criminal justice.

Throughout the system's evolution, ex-prisoners themselves challenged these evaluative frameworks and struggled for control over their experiences on parole. During the Progressive Era, this meant navigating and sometimes exploiting state relationships with private employers and reformers. These on-the-ground negotiations within state systems, rather than top-down administrative or legislative machinations, shaped the early development of parole in the United States. The experiences of Charles Bain, Frank Morris, Nettie Austin, and the excavated histories of other paroled men and women examined in this paper expose the constantly changing relationships that comprised the early expansion of carceral surveillance beyond prison walls.

## CHAPTER TWO

### The “Parole Evil”: Murder, Scandal, and the Reform of the Illinois Parole System

Captain Michael Keeley stared down at the lifeless form of Stateville Penitentiary’s Deputy Warden Klein, then up into the eyes of his killers. Klein’s prone body was riddled with cuts and puncture wounds, injuries inflicted by the seven prisoners crowded into Klein’s office, all of who now pointed their bloodied weapons directly at Keeley. The captain’s shock at the gruesome scene before him rendered him helpless as the armed men surrounded him, demanding his keys. Minutes before 22-year-old prisoner Gregerio Rizo led Keeley to the bloody scene, he and six fellow convicts had descended on the Warden, “hacking, slashing, and cutting” him with knives and the sharp points of a pair of scissors.<sup>136</sup> Keeley quickly realized that the seven would not mind leaving another body in their wake as they fled the solitary confinement cellblock. The papers scattered around Klein’s body would have been the least of Captain Keeley’s worries upon his arrival at the Warden’s office.

Keeley was probably more concerned about his set of keys, which were useless. He could not open the grates and doors between the armed desperadoes and the flattish woodlands surrounding Stateville Penitentiary. Luckily, the captain and his prisoners, their roles now reversed, obtained keys to the cellblock from another guard. Rizo and his companions then marched Keeley to the south gate of Stateville, where the Captain would inform his superiors that he was accompanying the group out of the prison to do roadwork.<sup>137</sup> What followed was a harrowing and deeply embarrassing afternoon for Keeley, who spent much of the day handcuffed

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<sup>136</sup> “Flee Prison: 1 Dead 4 Shot: Warden Slain in Escape of Seven at Joliet,” *Chicago Daily Tribune*, May 6, 1926, 1. The seven involved in the escape plot were: Charles Shader (or Schader), convicted of the murder of a policeman; Charles Duschowski, convicted of the murder of a policeman; Bernardo Roa, convicted of committing a murder with the help of Robert Torrez and Gregerio Rizo, who were also involved in the escape; Walter Staleski, serving 10 years to life for a robbery; and James B. Price, also serving 10 years to life for robbery.

<sup>137</sup> Ibid.



to a tree, and weeks of sensational headlines for the *Chicago Daily Tribune* and other newspapers throughout the state. Eventually, these headlines would spread throughout the nation.

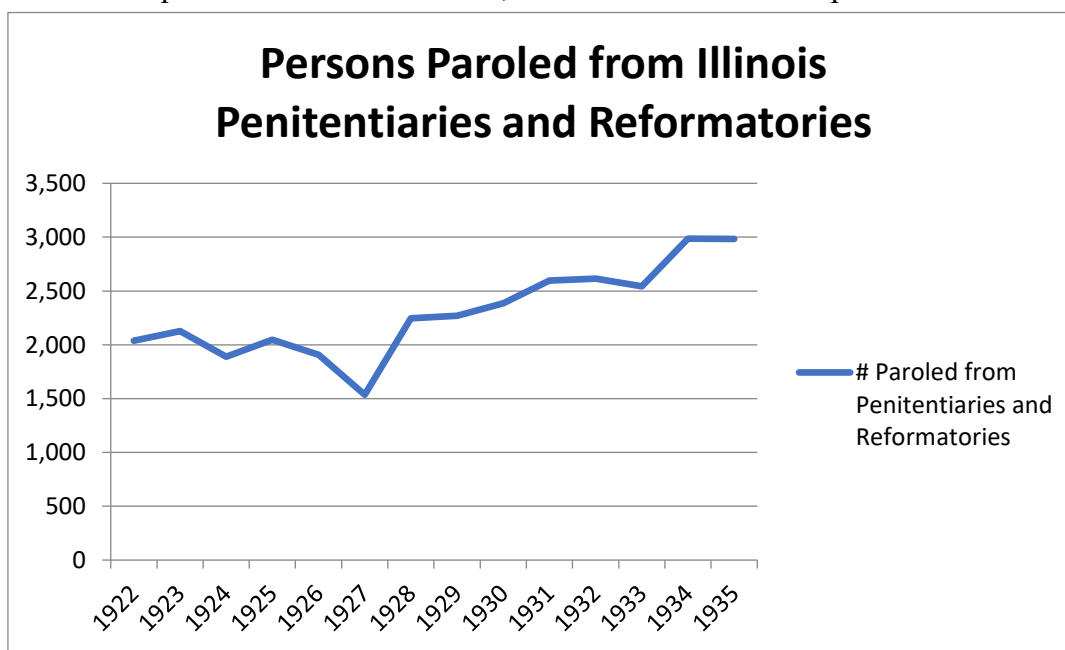
While initially dominated by the particulars of the prison break, newspaper coverage would soon shift to the papers Captain Keeley might have noticed upon his arrival at the scene of Klein's brutal murder. The setup seems too perfect: Klein's prone form atop a scattering of letters implicating him in a scandal that reached out from Stateville to Chicago, and all the way to the Governor's mansion in Springfield. The letters at the crime scene implicated Warden Klein, Commissioner of Pardons and Parole Will Colvin, and Major M.A. Messlein, Commissioner of the Chicago Hope Hall<sup>138</sup> and head of the Major Engineering Corporation in a scheme that made the parole system into a lucrative business. Supervised release on parole could now allegedly be purchased, with cash or with political pull. Under Colvin's administration of the Division of Pardons and Paroles, many inmates believed that obeying the rules no longer mattered because they were unlikely to be paroled unless they could pay a bribe or convince an influential politician to go to bat for them. The discovery at the scene of Klein's murder prompted first a grand jury investigation into possible corruption within the Illinois parole system and later forced the governor to commission a report on the workings of the indeterminate sentencing law in the state. This chapter explores a moment of reckoning for the parole system in Illinois. Once a progressive initiative championed by social reformers, parole became a source of graft for corrupt politicians. Newspapers often blamed parole for contributing to rising crime rates in Chicago.

By the 1920s, much of the public shared the belief that the Parole Board had become a means for criminals with money or powerful friends to circumvent indeterminate sentences

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<sup>138</sup> The Volunteers of America operated Hope Hall, a halfway house for male parolees.

designed to facilitate their reform—and if unsuccessful, to keep them off the street for as long as possible. Parole, once a promising social experiment, became by mid-decade a scapegoat charged with exacerbating rising crime rates and contributing to the difficulty of policing in urban areas, a way for bootleggers, gangsters, and other criminals with pull to serve short sentences and resume their illicit activities. What reformers considered a benefit of indeterminate sentencing—the ability to hold an individual prisoner until the board, in concert with the warden, determined that the rehabilitative process had been successful—became detrimental to inmates as public suspicion and disapproval of the board increased in the 1920s. The threat the newspapers posed to the Division of Pardons and Paroles existed because board officials were political appointees who depended on the Governor’s administration for job security and had incentive to keep him in office.<sup>139</sup> As such, board members were responsive to the voting public.



*Figure 5 Graph showing number of persons (men, women, and children) paroled from Illinois state penitentiaries and reformatories. These include the Illinois State Penitentiary (Joliet, Stateville, Women's Prison before 1930), Menard, Chester, Dwight (Women's Prison after 1930), Pontiac, the State Farm at Vandalia, the Illinois State Training School for Boys at St. Charles, and the Illinois State Training School for Girls at Geneva. The dip in the graph coincides with the years 1926 and 1927, during which newspaper coverage of parole was most inflammatory.*

<sup>139</sup> “Two Grand Juries to Investigate Conditions at the Joliet Penitentiary,” *The Illinoian-Star*, May 7, 1926, 1.

If the newspaper coverage of the board was negative, board members responded by cutting down on the number of men, women, and juvenile delinquents they released from corrections institutions (see Figure 5). Many prisoners lost hope of being released before the expiration of maximum terms set by law. As the decade came to a close and the Klein scandal opened the parole system to public investigation, government officials turned to statistical prediction strategies to preserve parole, even as prisoners and the public expressed growing dissatisfaction with the system—for opposite reasons.

The workings of the Division of Pardons and Paroles under Will Colvin may never be fully illuminated. But it is clear that public perception of the institution of parole, however truthful the allegations of corruption advanced by prosecutors and newspapers, shaped the way ordinary people thought about criminality and its cures. Even early in the 20<sup>th</sup> century, the project of prison building and warehousing was considered a solution to rising crime rates. The public questioned the efficacy of reform-oriented prison programming and called for longer, determinate sentences for violent crimes, eager to eliminate the risks they associated with parole. But parole laws somehow survived. And they did not just persist because of their advantages for wardens and legislators. Indeed, they often proved to be more of a burden than a boon for corrections officials and politicians. Parole laws weathered rising crime rates, explosive accusations of corruption directed toward board members, and the impetus to warehouse in part because they allowed prisons to hold on to the rehabilitative ideal, even if only symbolically. Getting rid of parole would mean an admission of the failure of reform in prisons that had become apparent to the public by the end of the Progressive Era. It would also be expensive. With the prison population rising daily, Illinois would almost certainly need to build additional

corrections facilities to accommodate new inmates.<sup>140</sup> Liberal use of parole, administered by a trustworthy board, might solve this costly problem. Moreover, abolishing parole would also force the state relinquish laws that provided for the potentiality to manage, track, and monitor those it had identified as deviant.<sup>141</sup> Legitimizing the retention of parole laws in Illinois, however, meant that the state had to undertake serious revision of parole board policy and practice—the Board’s decisions needed to be easily justifiable and transparent in order to limit accusations of corruption from law enforcement and the urban public. In the political climate of the 1920s, American social and economic ills were increasingly seen as quantifiable, predictable, and curable through better bureaucratic management backed by social scientific study, and political actors turned to social scientists to legitimate government processes. Supported by a legendary cadre of social scientists at the University of Chicago, Illinois embarked on a modernizing initiative to root out corruption and strengthen centralized bureaucratic control within its carceral system. As part of these efforts, state officials instituted the first parole prediction system in America, relying on social scientific methods developed for their use by leading Illinois sociologists and criminologists. It is in these moves towards professionalization,

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<sup>140</sup> For cost concerns, see for example “Parole Board Facing Biggest Problem of Day,” *Twin City Review*, July 20, 1927, 1; “Board Has Problem: Population in Penal Institutes Increasing Four Per Day, 1,300 Now Eligible to Parole,” *DeKalb Daily Chronicle*, July 25, 1927, 7; B.P. Bolton “Paroles from State Prisons are Declining: This is One Reason For the Overcrowded Condition in Illinois,” *The Freeport Journal Standard*, August 16, 1929, 7; and “Clabaugh Hits at Present Paroling System in Speech: Talks to Legislature on Either New Prisons or Pardon Board,” *The Jacksonville Daily Journal*, April 28, 1927, 1.

<sup>141</sup> Andrew A. Bruce, Ernest W. Burgess, and Albert J. Harno, *The Workings of the Indeterminate- Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago: Committee on the Study of the Workings of the Indeterminate Sentence Law, 1928), 48. As discussed in Chapter 1, parole supervision in the early 20<sup>th</sup> century was curtailed by lack of sufficient funding, the limitations of surveillance technology, and other factors. The legal provision for the supervision of persons with criminal records who had previously been incarcerated opened the possibility for close surveillance in the name of crime prevention just as soon as technology caught up with the law.

bureaucratization, and scientization where we can see the roots of the framework for penal practices later adopted at the national level.<sup>142</sup>

### **The Reckoning: Parole and Crime in the Roaring Twenties**

The way Americans thought about crime, its causes, and its cures changed substantially over the course of the period historians call the Progressive Era, or the Jazz Age. Many administrators of corrections institutions, some who identified with the cadre of progressive reformers,<sup>143</sup> responded to the environmental explanations of criminal behavior advanced by social scientists. In the midst of rising city populations and rising crime rates, criminologists and penologists experimented with programs designed to rehabilitate white criminals and release

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<sup>142</sup> We can see many of the features of later trends that would make mass incarceration a national trend in the 1960s and 1970s in some of the carceral practices that developed at the state level between the Progressive Era and the New Deal. These include partnerships between corrections institutions and charitable community organizations that allowed for state policing of lower-income communities in urban areas (as discussed in Chapter 1). For a masterful discussion of similar links between social welfare programming and carceral institutions, see Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016). Later, as Julilly Kohler-Hausmann outlines, politicians committed to law and order in both rhetoric and policy, swapping welfare programs built around individual rehabilitation for the expansion of the penal system. Policymakers funded strategies for the management of poor communities and communities of color that relied on surveillance and confinement. See Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton: Princeton University Press, 2017). In the period discussed in this chapter, we see the emerging adverse effects of crime statistics on African Americans in everyday life and within criminal justice policy and practice. A national view of the ideas of black criminality that gained traction in social science and everyday parlance during the Progressive Era can be found in Khalil Gibran Muhammad's study, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, Harvard University Press, 2010). Following the 1926 "parole mill" scandal, I also identify the move away from relying on employers and voluntary organizations to supervise ex-offenders and the greater commitment to a centralized, well-funded state parole system. As we will see in Chapters 4 and 5, the centralization of the parole system, along with the adoption of a statistical prediction system, intensified and institutionalized disadvantages for poor prisoners and prisoners of color.

<sup>143</sup> There has been much debate in the historiography over progressivism, whether it constituted an ideology, and who can be classified as a progressive reformer. These sets of questions are not ones that I will attempt to address with any particular eloquence here, but for the sake of clarity, I acknowledge my indebtedness to Ronald G. Walters's definition of 'reformer,' and my own working definition of who I think the progressives were. Reformers are "those who wish to improve individuals or existing social, economic, and political arrangements" without changing the fundamental structure of society. For the purposes of this dissertation, progressive reformers were those persons who (a) bought into an ideology of positive statism but were dissatisfied with local, state, and national government performance under corrupt regimes of parties and bosses; (b) had faith in the power of people to progress and create a better world through collective action; (c) often described themselves as progressives or their actions as progressive; and (d) drew from three "social languages of discontent" identified by Daniel Rodgers to describe their world. Rodgers's three "clusters of ideas" that comprise the social languages are: the language of antimonopolism, the language of social bonds, and the language of efficiency. Daniel T. Rodgers, "In Search of Progressivism," *Reviews in American History* 10 (December, 1982), 113-132. I owe the development of parts (a) and (b) of this working definition in part to Glen Gendzel, "What the Progressives Had in Common," *The Journal of the Gilded Age and the Progressive Era* 10, no. 3 (July 2011), 331-339.

them as reformed and productive citizens. Progressive Era changes did not just extend to corrections institutions. Reform of the criminal justice system, especially of the municipal courts, made great strides in Chicago in the first two decades of the twentieth century. The city became a model for new approaches to criminal justice, even as reformers worked cheek-by-jowl with corrupt city officials. But as the first two decades of the new century slipped away and the country found itself caught up in feverish preparation for war, disdain for the perceived naiveté of progressive reformers (especially women reformers) boiled to the surface.

Societal anxieties about crime were a driving factor behind many progressive reform efforts, especially with growing acceptance of the view that criminals were shaped by their upbringing and surroundings rather than marked from birth. Settlement houses, educational reform efforts, and the temperance movement were all concerned with shaping immigrants and the poor into upstanding, productive American citizens, and preventing crime and other deviant behavior in the process. For those unfortunate souls who were convicted of crimes and incarcerated, the reformatory-prison model promised to pick up where settlement houses, social workers, and city court systems left off in order to rehabilitate deviant men and women before returning them to their communities. The passage of parole laws was considered the logical culmination to this theoretical ideal of reform rather than punishment as the prison's objective and purpose. Parole was intended as both the ultimate test the prison-as-reformatory and the ultimate safeguard for society. But parole and the indeterminate sentence rarely enjoyed the support of the American public.

Following World War I, a time when parolees had been a source of cheap labor for war industry in Illinois rather than a nuisance, the parole system became an easy target for those

concerned with rising crime rates in urban areas.<sup>144</sup> Newspapers and politicians seeking reasons for the rise in violent crime in Chicago and other major cities across the country pointed to the release of convicted offenders into the care of busy employers and overworked parole officers. Parole was not viewed as the culmination of the reform process and instead was considered an easy way for dangerous men to return to the streets. In Chicago, a city in which reformers had spent decades sponging the stain of corruption from the municipal court, judges no longer had the power to lock criminals away for lengthy periods of time.<sup>145</sup> Sentences were indeterminate and often prescribed for persons convicted of common crimes like robbery (1-14 years), and the power to release prisoners lay with the parole board.

Despite the vilification of the parole board, parole brought many advantages to prison wardens and state legislatures. Wardens used indeterminate sentencing as a means of extracting cooperation from prisoners—with the presumption that good behavior led to early release. As David Rothman contends in his sweeping study of state parole systems, wardens ardently

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<sup>144</sup> During World War I, Illinois faced labor shortages in some state institutions. To combat these shortages, the state experimented with paroling prisoners to work in civil service—at first in a state-run home for aging or infirm war veterans and later on various government projects throughout Illinois. The Division of Pardons and Paroles sent men from Joliet, the Southern Illinois State Penitentiary, and the state reformatory at Pontiac to essential industries, calling this process “industrial parole.” Men released on industrial paroles worked on construction and industrial projects throughout the state. For example, parolees from the Southern Illinois Penitentiary built a street car line in the city of Alton and paroled men from Joliet constructed a sewer at Dixon State Hospital. By August, 1918, the two prisons and the reformatory had released over 400 men to civil service jobs and anticipated releasing at least 250 additional men to Rock Island for work in the arsenal there. December 1918 found 800 parolees working in Rock Island alone. *The Quincy Daily Herald* reported that the paroled men wished to do their part to help the war effort and took “great pride” in their new jobs. While some newspapers published glowing articles on industrial parole, prompting visits from Massachusetts officials eager to observe the program in practice, others were less optimistic. State’s Attorney Floyd Thompson blamed a spate of burglaries in Rock Island on the new arrivals and accused Superintendent Will Colvin of sending “incorrigible criminals” to the city without proper supervision. See “State Prisoners in Essential Industrial Work,” *The Advertiser*, August 31, 1918, unpaginated; “Patriotic Prisoners,” *The Quincy Daily Herald*, July 6, 1918, 9; “Approves Call for Prisoners Out on Parole,” *The Rock Island Argus*, August 24, 1918, unpaginated; “Seek to Bring More Convicts Here for Work,” *The Rock Island Argus*, December 6, 1918, unpaginated.

<sup>145</sup> Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York: Cambridge University Press, 2003).

championed parole and sat on parole boards in many states until the 1920s.<sup>146</sup> Parole board membership was not extended to wardens in all state systems, however, and was only partially true for Illinois—though wardens were required to be physically present at meetings of the parole board, they were not given power to pass judgment on cases. However, the Illinois Civil Administrative Code of 1899 required wardens to attend each meeting of the Board of Pardons to advise its members and also to compose written reports concerning each prisoner the Board considered for release. Moreover, all prisoners on parole were “considered in the legal custody of the warden of the penitentiary from which they were paroled... and considered as remaining under conviction for the crime of which they were convicted and sentenced.”<sup>147</sup> Wardens were to correspond with parolees and their employers in order to determine when it was appropriate to recommend the former inmate to the Board for a final discharge. The 1899 laws also enabled wardens at Joliet and Chester to re-imprison any parolee at any time by sending a warrant for their arrest to officers of the law or agents of the penitentiary. While wardens were never guaranteed direct paroling power, their recommendations still carried weight with the Board and could be used as a carrot to keep inmates in line. The warden offered the Board a peek behind the prison walls, and because he was often the Board’s source of information regarding the conduct of inmates hoping for parole, prisoners knew he could greatly impact their chances for

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<sup>146</sup> David J. Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Boston: Little Brown, 1980): 183, 178. Though Rothman claims to cover parole systems throughout the United States, he largely fails to acknowledge the differences between early state systems beyond disparities in parole and indeterminate sentencing laws. This attempt to come to generalized conclusions about parole systems in the first few decades of the twentieth century obscures many differences between state parole systems and ignores the partnerships between state institutions and voluntary organizations that enabled states to supervise men and women on parole (see Chapter 1). As such, Rothman concludes: “the exercise of parole’s policing function was feeble and ineffectual.”

<sup>147</sup> Harvey B. Hurd, ed., *The Revised Statutes of the State of Illinois 1899* (Chicago: Chicago Legal News Company, 1899), 646.



release. Indeed, eligibility for parole hearings was determined by a prisoner's record within the penitentiary or reformatory—presumably as determined by the warden and guards.<sup>148</sup>

While wardens used parole as a means to enforce penitentiary rules and keep control over prisoners, state legislatures could use early release to prevent prison overcrowding. Rothman contends that by the time parole laws were nearly ubiquitous in the United States, the public and many government officials assumed that state prisons were overflowing.<sup>149</sup> A 1928 report to the Illinois legislature compiled by a three scholars of criminology and the law concludes that by April of 1927 the penitentiaries at Joliet, Pontiac, and Menard were “overcrowded to such an extent that their proper management is greatly interfered.”<sup>150</sup> To address the management issues, Illinois would either have to build new prisons or provide for the supervision of a greater number of parolees. Moreover, inmates were far more expensive to keep and manage than were parolees. As the report outlined, the yearly cost for each inmate at Joliet was \$286—the total male population of just two state prisons, Joliet and Stateville, cost Illinois \$849,224 in 1927.<sup>151</sup> Each parolee, by contrast, cost the state about \$74 per year.<sup>152</sup> Despite the Illinois State Legislature's defense of indeterminate sentencing and parole, it is unclear if the Division of Pardons and Paroles attempted to ameliorate real or perceived prison overcrowding through early release.

What is clear is that by the end of the world war, the state legislature had been forced to appropriate funds for prison construction in spite of the expansion and professionalization of the

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<sup>148</sup> John L. Whitman, “Operation of a New Parole Law in Illinois,” *Journal of the American Institute of Criminal Law and Criminology* 9, no. 3 (November 1918), 388.

<sup>149</sup> Rothman, *Conscience and Convenience*, 188.

<sup>150</sup> Bruce et al., *Workings*, 47.

<sup>151</sup> Ibid. There were 2,869 prisoners in the Joliet and Stateville facilities in 1927. See E.R. Amick, *Sixth Report of Statistician, Year Ending June 30, 1927* (Springfield: Journal Printing Co., 1928), 77.

<sup>152</sup> There were 2,631 total persons on parole in Illinois in 1927 and the state legislature authorized an appropriation of \$194,000 for their supervision. See ibid and Bruce et al., *Workings*, 32.

Division of Pardons and Paroles.<sup>153</sup> This prison-building project did not solve the problem, as the head of the parole board complained in 1927 that the three penitentiaries were much too crowded.<sup>154</sup> Despite reforms including the appointment of social scientists to the Department of Public Welfare and to the Board itself, the new Division of Pardons and Paroles was still as unpopular with the public as the earlier, nakedly political Board of Pardons had been. Though accused of contributing to rising crime rates, indeterminate sentencing had long enjoyed the support of criminologists, penologists, corrections officials, and progressive reformers—people directly connected to its administration with incentive to improve the system rather than abandon it. The rise in crime in the early to mid-1920s coupled with the “parole mill” scandal explored in this chapter catalyzed a pitched battle between parole’s supporters and detractors, which the institution of parole in Illinois might not have survived. As Chapter 3 reveals, however, the state’s response to the scandal was to boost legislative appropriations for the parole system, expanding the arm of carceral bureaucracy focused on selection for release and the surveillance of former prisoners.

### **The “Crook’s Paradise:” Understanding the Postwar Crime Wave<sup>155</sup>**

The 1926 “parole mill” scandal broke in a decade when reported crime rates in the city of Chicago and other major cities were rising drastically. Law-abiding citizens searched for solutions, wanting someone, or something, to blame for the perceived criminal chaos around them. From 1918 to 1919, murder cases in the Chicago Municipal Court rose by 71%, and

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<sup>153</sup> Prisoners began construction of the Stateville Correctional Center in 1917, and the new prison opened in 1925. In 1921, the state authorized the opening of the Vandalia prison farm colony, a minimum-security facility for men convicted of misdemeanors.

<sup>154</sup> Hinton G. Clabaugh, “Statistical Data Supporting Special Report and Recommendations Parole System of Illinois,” April 27, 1927, Lenington Small Papers Series II: Legislation and Departmental Files, Box 134, Folder 1, Abraham Lincoln Presidential Library (hereafter ALPL). By “three penitentiaries,” Clabaugh meant both the old Joliet Prison and the new Stateville Prison as well as Menard, Chester, and Pontiac.

<sup>155</sup> The quoted segment of this section heading is taken from “The Crook’s Paradise,” *Chicago Daily Tribune*, December 16, 1925, 8. The following section heading is also borrowed from the *Tribune*: “Crime Gets All the Breaks,” December 30, 1925, 8.

robbery cases rose by 56%.<sup>156</sup> By 1925, Chicago was labeled the “Murder Capital” of America, with 108 homicides in the first three months of the year.<sup>157</sup> A report on the parole law in Illinois contended that “vast crime waves have followed great wars” and that rising crime in America could be attributed to the effects of the world war “in which people were taught to fight and kill.”<sup>158</sup> But despite this contention and the excellent reputation of Illinois’s parole board among leading penologists, it was not long before Illinoisans turned against the Board of Pardons and Parole, believing that the crime rate had soared in part because of the Board’s leniency.<sup>159</sup>

For a city in which Progressive reformers had spent years cleaning up the criminal justice system, the bastardization of the original intent of the indeterminate sentencing laws connected to the parole system was a major blow.<sup>160</sup> Supervised release under the parole law was initially

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<sup>156</sup> Willrich, *City of Courts*, 287. As Willrich argues, this rising crime rate was due to a number of factors, including a spike in unemployment and fierce competition for jobs coupled with rising inflation. Sociologist Charles S. Johnson argued in 1922 that the crime conditions in Chicago were “even worse” than these figures suggest, as reported numbers were based on incomplete police records. The 1920 Chicago Crime Commission report estimated that there were over 10,000 professional criminals residing in the city of Chicago, and that the annual loss from theft (robberies, larcenies, and burglaries) was \$12 million. Evidence indicated that police officials sometimes underreported the number of criminal complaints made in their districts. See Chicago Commission on Race Relations, *The Negro in Chicago: A Study of Race Relations and a Race Riot* (Chicago: The University of Chicago Press, 1922): 327.

<sup>157</sup> “This is the Murder Capital,” *Chicago Daily Tribune*, April 12, 1925, 8. Also see “Murder a Day Plus, Chicago’s Record So Far: Slaying Jump 50% Over Previous Marks,” *Chicago Daily Tribune*, June 3, 1925, 18.

<sup>158</sup> Will Colvin, “Introductory,” in *Illinois Parole Law: Accomplishments, Statistical Data, Papers, and Addresses on Its Provisions and Its Administration* (Springfield: The Department of Public Welfare, State of Illinois, 1921), 4.

<sup>159</sup> Illinois’s parole law was considered to be “the best parole law in the United States” by the American Prison Association. The law was passed by a unanimous vote in favor of a new Civil Administrative Code in both houses of the state legislature in July of 1917. The Code abolished the original State Board of Pardons, which had been in charge of paroles since 1899, and created the Department of Public Welfare, a division of government charged with overseeing the Board of Pardons and Paroles. The new law also included provisions for the closer supervision of parolees, allowed prisoners serving definite sentences to be paroled after serving the minimum time set by law for their crime, and set measures to ensure cooperation between the committing authorities in each county and the state parole agents. “Illinois Has the Best Parole Law in the United States—Parole Agents Know Where Men Are Working,” *The Monmouth Daily Atlas*, January 23, 1918, 5. For a description of how the law was administered, see Whitman, “Operation,” 385-394.

<sup>160</sup> The indeterminate sentence enabled corrections institutions to keep convicted criminals behind bars until the institution decided that the prisoner no longer posed a risk to society. In theory, indeterminate sentences were to be combined with reformatory methods within the prison designed to rehabilitate the inmate. Once the prisoner was released, he or she would then serve out the remainder of the sentence under the supervision of parole officers outside of the prison. See S.J. Barrows, *The Indeterminate Sentence and the Parole Law: Reports Prepared for the International Prison Commission* (Washington: Government Printing Office, 1899).

supposed to afford greater protection to society. Statistically, “recidivists and dangerous criminals” generally served longer periods in correctional institutions on indeterminate sentences than they had under definite sentencing laws.<sup>161</sup> But with the power to determine sentence length transferred from the courtroom to the Division of Pardons and Paroles in 1917, the court system was somewhat relieved of its responsibility to hand down longer sentences in response to the public’s perception of crime rates. According to an address by Illinois State Senator James J. Barbour, the parole law “took away from the individual judge, or a motley jury, acting upon the limited information and restricted latitude permitted under the rules of evidence and the hurry of a legal procedure, the right to impose a definite sentence.”<sup>162</sup> Barbour called juries “untrained and inexpert,” unfit to decide how long a given defendant should be locked away, and argued that the parole law rendered corrupt judges powerless to hand down “light punishments, as a matter of favor and pull.”<sup>163</sup> Citizens of Illinois and other states that had passed indeterminate sentencing laws were no longer so quick to blame local courts for failing to hold defendants accountable for their perceived debts to society or for incorrectly estimating how much time it might take for a criminal to reform. Instead, when Chicagoans were confronted with a spike in reported crime following World War I, they directed their fear and anger south to Springfield and the Board of Pardons and Parole.

In 1918, the Chicago City Committee of Aldermen and other city officials visited Springfield to ask for a temporary suspension of the parole law, which they believed released a large number of the “desperadoes” terrorizing their city at night. State government officials

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<sup>161</sup> “Defense of Parole System,” *The Rock Island Argus*, August 9, 1916, 4.

<sup>162</sup> James J. Barbour, “The Illinois Parole Law,” in *Illinois Parole Law: Accomplishments, Statistical Data, and Addresses on Its Provisions and Its Administration* (Springfield: The Department of Public Welfare, State of Illinois), 19, ALPL. Originally given as an address to the Illinois State Society of the American Institute of Criminal Law and Criminology and the Illinois State’s Attorney’s Association.

<sup>163</sup> *Ibid.*

denied this request. Superintendent of Pardons and Paroles Will Colvin and Superintendent of Prisons John Whitman fired back, blaming Cook County courts and the probation law for rising crime rates in Chicago.<sup>164</sup> Chicago was not alone in its efforts to restrict parole. The Chamber of Commerce for Rock Island, a city near the Iowa border, sent a resolution to Will Colvin and then-Governor Frank O. Lowden stating that while “public interest [was] in sympathy with the parole idea,” it did not approve of the “action of the parole board in loading on a single community the number of paroled prisoners that have been unloaded on this one.”<sup>165</sup> The Chamber of Commerce was most likely correct in their estimation that their community was receiving a greater number of parolees than other similarly sized cities due to the use of paroled laborers by federal contractors located in Rock Island during the war.<sup>166</sup> The law was not restricted or suspended, but city officials, prominent citizens, and newspapers kept the Department of Public Welfare on the defensive.

As the year came to a close, the Chicago Association of Commerce organized the Chicago Crime Commission, pledging to make the city inhospitable for lawbreakers. Its stated mission was also inhospitable to those reformers who hoped to work against crime by way of the rehabilitation of convicted criminals. In making his recommendation for the setup of the Commission, the chairman of the committee charged by the Association of Commerce to look into crime conditions in the city assured the *Chicago Tribune* that the new commission would in “no sense [be] an organization for the reform of criminals... Its purpose is solely to secure the

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<sup>164</sup> “Prison Parole Law Attacked: Chicago Officials Visit Capital to Obtain Temporary Suspension, But Fail in Their Effort,” *Christian Science Monitor*, February 7, 1918, 6.

<sup>165</sup> “Demand Acton on Parole Men: Chamber of Commerce Makes Public Protest Sent Board of Pardons and Governor,” *The Rock Island Argus*, December 12, 1918, 5.

<sup>166</sup> “Approves Call for Prisoners Out on Parole: Colonel Leroy T. Hillman, Arsenal Commandant, Endorses Request for More Workers,” *The Rock Island Argus*, August 24, 1918, unpaginated.

punishment of the guilty and to make the punishment adequate to the crime.”<sup>167</sup> The businessmen who donated to the Commission described it as a neutral body, “free from political, social, or religious bias” and therefore able to “avoid the mistakes of professional reformers” with their concessions to sentiment and religion.<sup>168</sup> The Commission began with a budget of \$10,000 per month, and it wasted no time in criticizing the parole system.<sup>169</sup> But the Superintendent of Pardons and Paroles persisted in shifting responsibility for Chicago’s lawlessness to local courts and police departments. Colvin wrote that he had “no desire to criticize any public official” but that he believed that the State’s Attorney’s policy of granting immunity to criminals who testified against other persons was “to a very large degree responsible for crime conditions as they exist at this time in Chicago.”<sup>170</sup>

*From Picket Lines to Prohibition-Era Gangland: Unrest in Post-WWI Chicago*

Anxieties surrounding the parole system heightened in response to large-scale changes taking place in Chicago by the end of World War I. This section of the chapter will focus on two case studies to illustrate the visibility of violent urban unrest, gang-related crime, and their connections to public concerns about criminal recidivism, indeterminate sentencing, and so-called “early release” policies. The Chicago race riot of 1919 and the seemingly meteoric rise of gang activity once the 18<sup>th</sup> Amendment took effect in January of 1920 each intensified Illinois residents’ perceptions of law enforcement and municipal and state government as corrupt—on the side of rioters and criminals rather than law-abiding citizens.

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<sup>167</sup> Edward E. Gore, quoted in “Business Men Organize to Check Crime and Plan a Series of Changes in Law,” *Chicago Daily Tribune*, December 7, 1918, 17.

<sup>168</sup> Vent & Worfield, Attorneys, as quoted in Chicago Crime Commission, *Chicago Crime Commission: Organized by the Chicago Association of Commerce* (Chicago: Chicago Crime Commission, 1921), 10.

<sup>169</sup> “Business Men Organize to Check Crime,” 17.

<sup>170</sup> Will Colvin, “Division of Pardons and Paroles,” in *Annual Report of the Department of Public Welfare, July 1, 1919, to June 30, 1920* (Springfield: Illinois State Journal Co. State Printers, 1921), 116.

During the war, anti-immigration legislation stanching the previously steady flow of European immigration to Chicago and jobs were plentiful for first, second, and third generation white ethnic Americans. Even the stream of African Americans headed North to escape crushing poverty, racist violence, and discriminatory Jim Crow laws<sup>171</sup> found steady employment in industries where they were usually the last hired and first fired.<sup>172</sup> When the war ended, however, working-class men and women across the country feared layoffs and declining wages. Over the course of the “Red Summer” of 1919, four million American workers participated in the largest wave of strikes in United States history. Some of the most significant collective actions occurred in Chicago’s mass production industries, where laborers worried about retrenchment by their employers after the boom in wartime production.<sup>173</sup> Racial and ethnic conflict also increased during this period, as native whites pushed for restrictions on European immigration, violent white racists responded to the influx of black migrants from the South, and foreign-born

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<sup>171</sup> During the first half of the Great Migration, Chicago’s black population “grew from 44,000 in 1910 to 234,000 in 1940.” Marcia Chatelain, *South Side Girls: Growing Up in the Great Migration* (Durham: Duke University Press, 2006), 3. Historians attempting to uncover causes for the Great Migration offer many reasons why two million African Americans relocated between 1860 and 1930: in order to escape poor living and working conditions in the South, to seek out wartime jobs in urban areas, to take advantage of greater educational opportunities, to flee anti-black violence, and to exercise voting rights, among others. Twenty-five percent of these migrants headed northwards to opportunity. As Chatelain chronicles, the development of mechanized cotton pickers and the destruction caused by boll weevils in southern cotton fields minimized the need for African American laborers. With the expansion of the Illinois Central Railroad line, which stretched from Chicago into Tennessee, Mississippi, and Louisiana, black migrants were able to move northward with relative ease. Still, as many scholars point out, the decision to move north was not an easy one for black Southerners. In order to make the journey and commit to starting anew in the urban north, many African Americans let go of their dreams of “independence through land ownership... central to southern black culture since emancipation.” James R. Grossman, *Land of Hope: Chicago, Black Southerners, and the Great Migration* (Chicago: University of Chicago Press, 1989), <http://hdl.handle.net/proxy1.library.jhu.edu/2027/heh.01940.0001.001>. Migrants left friends and family members behind in the South. Yet another hardship facing many black southerners who tried to move north were binding legal and extralegal factors constructed by white southerners who depended on African American labor.

<sup>172</sup> For historical statistics on unemployment rates by race and sex, see Susan B. Carter, “Labor Force,” in *Historical Statistics of the United States, Millennial Edition Online*, Susan B. Carter et al. eds. (Cambridge University Press, 2006), 2-32, doi: 10.1017/ISBN-9780511132971.Ba.ESS.02

<sup>173</sup> Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* (New York: Cambridge University Press, 2014): 12. Chicago’s mass production industries included “steel, meatpacking, ready-made clothing, and agricultural equipment.”

Chicagoans “played out Old World antagonisms” within the city.<sup>174</sup> Ethnic communities were deeply segregated, but jammed close together in the impoverished city center.<sup>175</sup> These Loop neighborhoods allowed recent immigrants access to Old World language, food, and customs. Due to slum conditions in the inner city, however, most immigrants moved away from the Loop as soon as they could afford to. Black migrants from the South, however, were usually unable to move out of the Black Belt and into areas with better housing conditions due to restrictive covenants and fear of violent backlash from white neighbors. For white ethnic workers, leaving the Loop often meant moving closer to ethnic enclaves near their workplaces.<sup>176</sup> Though different communities were clustered close together around Chicago’s steel plants, ethnic boundaries there were sharply defined and respected by all residents. Ultimately, as historian Lizabeth Cohen argues, “race, ethnicity, job, and neighborhood served as boundaries... among industrial workers in Chicago.”<sup>177</sup> The steel strike of 1919 and the conflicts between packinghouse workers and their employers, therefore, culminated in defeat rather than the triumph of a working-class revolution as ethnic and racial tensions grew.

Instead of the revolution laborers hoped for, a race riot began on July 27, a hot, sticky Sunday. Black Chicago residents headed to the segregated 26<sup>th</sup> Street beach, while white city-dwellers swarmed to the string of beaches that extended along the shoreline from 29<sup>th</sup> Street.

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<sup>174</sup> Ibid., 29. Also see Dominic A. Pacyga, *Chicago: A Biography* (Chicago: The University of Chicago Press, 2009), 218.

<sup>175</sup> Many working class people (with the exception of African Americans, confined to the Black Belt) resided in the ethnic communities that formed a ring around the Loop in 1920. As historian Lizabeth Cohen describes, if one were to move around the Loop from north to southwest, one would encounter “Little Sicily; Stanislawowo, or Polish downtown; the West Town Jewish community; the Italian settlement around Grand Avenue; Greek town; the oldest and largest Italian colony of Little Italy; Jewish Maxwell Street; Chicago’s Lower East Side, and Little Bohemia.” Cohen, *Making a New Deal*, 30, <https://ebookcentral.proquest.com/lib/jhu/detail.action?docID=1775943>.

<sup>176</sup> Cohen lists four distinctive communities of workers aside from the old immigrant communities surrounding the Loop. These are: Packingtown, near Armour & Company and Swift & Company; the Black Belt, which I describe later in this chapter; the Southwest Corridor, home to International Harvester, McCormick Works, Western Electric, and Hawthorne Works; and Southeast Chicago, near U.S. Steel South Works, International Harvester, and Wisconsin Steel. See Ibid., 22-23.

<sup>177</sup> Ibid., 38.



Black teenager Eugene Williams went swimming with his friends and at some point in the day drifted farther and farther away from the coastline on a raft. The lake's current picked up, and pushed Williams' craft across an invisible boundary line separating the black beach from the white beach. Twenty-five-year-old George Stauber hurled rocks and racial epithets at the boys from shore. Tragically, one of these rocks struck Williams in the head. The young man fell off the raft and drowned.<sup>178</sup> His friends ran for a black policeman, who urged a white officer to arrest Stauber. Intent on shielding this murderous, rock-throwing defender of segregation, the white officer refused to make the arrest or to allow the African American officer to take Stauber into custody. A crowd gathered to watch as the two patrolmen argued over Stauber, and a black onlooker was arrested, "spark[ing] a general melee" in which hundreds of African Americans chased the policemen from the beach.<sup>179</sup> The crowd then marched southwest, setting off a wave of violence that persisted until Wednesday, July 30. By this midweek point, thirty-eight people lay dead, hundreds more were injured, and rioters had damaged or stolen millions of dollars of property.<sup>180</sup> Most of the injured and dead were African American.

Government officials saw the riot as emblematic of the bad elements that marred the fabric of Chicago society, with Governor Frank O. Lowden declaring that, "Hoodlum elements of both races are to blame."<sup>181</sup> Chicago newspapers argued that city hall cultivated these "hoodlum elements," drawing connections between city politicians and white and black leaders

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<sup>178</sup> Jonathan S. Coit "Our Changed Attitude': Armed Defense and the New Negro in the 1919 Chicago Race Riot," *The Journal of the Gilded Age and Progressive Era* 11, no. 2 (April 2012), 230. See also Pacyga, *Chicago*, 209-210. For comprehensive accounts of the riots, see Allan H. Spear, *Black Chicago: The Making of a Negro Ghetto* (Chicago: The University of Chicago Press, 1967) and William M. Tuttle, Jr., *Race Riot: Chicago in the Red Summer of 1919* (New York: Atheneum, 1970).

<sup>179</sup> Coit, "Armed Defense and the New Negro," 230.

<sup>180</sup> Ibid.

<sup>181</sup> Frank O. Lowden as quoted in *ibid*, 231.

of the underground economy in the city's Black Belt.<sup>182</sup> White newspapers portrayed the black Belt as the very center of vice in the city, a place where saloons and cabarets were open all night and "the rattle of dice and the click of poker chips were seldom stilled."<sup>183</sup> Democratic State's Attorney Maclay Hoyne condemned mayor William "Big Bill" Hale Thompson's City Hall for fostering these immoral and criminal activities in the Black Belt, but ultimately blamed African Americans for the violence of the riot. He argued that the mayor's administration "preached to the Negro... the doctrine of special rights and privileges, provided they have a political pull."<sup>184</sup> Hoyne told the *Chicago Herald-Examiner* that Thompson's favoritism toward African Americans meant that "negro hoodlums" had no fear of the law and believed only in the rule of "graft and politics."<sup>185</sup> The State's Attorney believed that a fight over a craps game, rather than the murder of Eugene Williams, caused the riots. Incredulous black leaders pushed back against Hoyne's view that African Americans were responsible for the violence that rocked the city from Sunday to Wednesday, reminding the official of the frequent racially motivated attacks on black residents that went neglected, unsolved, and unprosecuted by white politicians and law

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<sup>182</sup> The Black Belt refers to a strip of land on Chicago's South Side, "from 18<sup>th</sup> Street to 39<sup>th</sup> Street and bounded by State Street on the east and the Rock Island Railroad tracks and LaSalle Street on the west." As African Americans moved to the city in larger numbers during the Great Migration, the Black Belt expanded southwards, with some black residents moving as far east as Cottage Grove Avenue. Restrictive covenants and racial violence forced black residents of Chicago into some of the worst housing in the city, and white landlords extracted high rents for these overcrowded and dilapidated spaces. By 1919, the Black Belt suffered a housing shortage, though white residents of the city easily obtained apartments at low rates. Despite the housing crisis, the Black Belt was home to a thriving business district called the Stroll, a strip of music venues, beauty parlors, theaters, and gambling houses that stretched along State Street from 26<sup>th</sup> to 39<sup>th</sup> Streets. For a brilliant study of the Stroll as the "structural foundation for Chicago's New Negro intellectual life" see Davarian L. Baldwin, *Chicago's New Negroes: Modernity, the Great Migration, and Black Urban Life* (Chapel Hill: The University of North Carolina Press, 2007). For the description of the Black Belt paraphrased in this footnote, see pages 23-25.

<sup>183</sup> E. Frank Gardiner, "Vice and Politics as Factors in Chicago Riots: Negroes and Whites Drank and Danced Together in All Night Cabarets of the Black Belt," *The New York Times*, August 3, 1919, 41.

<sup>184</sup> Hoyne quoted in "City Hall Politics Caused Riots," *Chicago Daily Tribune* August 24, 1919, 2. Also see "Criticise Charge of Hoyne: State's Attorney Runs Amuck with Flimsy Evidence in Riot Probe," *The Chicago Defender*, August 30, 1919, 1.

<sup>185</sup> Hoyne, quoted in Coit, "Armed Resistance and the New Negro," 237.

enforcement.<sup>186</sup> Both sides agreed, however, that “criminals and violators of the law [found] in Chicago a haven of rest for all their kin and kind.”<sup>187</sup>

Once Governor Lowden withdrew state militia troops from Chicago in August, a gathering of Chicago social, civic, and professional organizations urged him to form an official body to study the “causes underlying the conditions resulting in the present race riots.”<sup>188</sup> Following the view that conflict between white and African American city residents might cease if the “two races [were] brought to understand each other better,” Lowden appointed “distinguished representatives of both races” to a Commission on Race Relations.<sup>189</sup> The first order of business for the twelve black and white civic reformers who comprised the Commission was to appoint researchers who could conduct an investigation into the causes of the riot. The Commission chose Graham Romeyn Taylor, a progressive journalist who had once been active in the settlement house movement, to lead the investigation. Charles S. Johnson, a black graduate student in Sociology at the University of Chicago, would be second in command.<sup>190</sup> Taylor and Johnson released their report in 1922. Though Johnson was officially Taylor’s subordinate, the graduate student authored much of *The Negro in Chicago*, which quickly became (for a time) the most influential study of black life in the urban north.<sup>191</sup> The sweeping final report chronicles the

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<sup>186</sup> “Criticism Charge of Hoyne,” 1. For an historian’s view of the causes of the riot, see Coit, “Armed Defense and the New Negro.”

<sup>187</sup> “Criticism Charge of Hoyne,” 10.

<sup>188</sup> “Troopers Restore Order in Chicago: Presence of 6,000 Armed Men in South Side District Brings About End of Rioting,” *The New York Times*, August 2, 1919.

<sup>189</sup> Frank O. Lowden, “Foreword,” in *The Negro in Chicago: A Study of Race Relations and a Race Riot*, by Chicago Commission on Race Relations (Chicago: The University of Chicago Press, 1922), xiii.

<sup>190</sup> Muhammad, *Condemnation*, 236.

<sup>191</sup> Ibid. Like many black academics in the social sciences—and like many sociologists trained by Robert E. Park and Ernest W. Burgess—Johnson’s work “aimed at showing the primacy of environmental factors in determining human capacity.” Historian Mia Bay, as quoted in *ibid*, 238. Johnson and Romeyn organized the study in order to figure out the underlying causes of the race riot. The Commission focused the majority of its investigative energies on understanding “the conditions of Negro life in Chicago and of the relations between the two races.” Johnson’s final report consisted of ten substantive chapters, the first on the 1919 riot, and the subsequent chapters tracing the history of African Americans in Chicago, whites’ perceptions of black residents, Blacks’ perception of white city-dwellers, and recommendations for improving race relations in the city. Chicago Commission on Race Relations,

events of the riot and dispels many of the myths taken as fact during those tense days at the end of July. As Khalil Gibran Muhammad indicates, however, the most significant piece of *The Negro in Chicago* emerges within Johnson's evisceration of crime statistics—his claim that racial crime statistics could not be trusted. With this critique, Johnson spurred other social science researchers to question the widespread perception that blacks were inherently more criminal, whether as a result of their genetics or lived experiences, than any other racial or ethnic group. While some social science researchers revised their view of African American criminality and of crime statistics in general in the wake of Johnson's research, Muhammad's work indicates that the myth of black predisposition to criminality lasted through the social scientific trend of "liberal environmentalism."<sup>192</sup> The racial fears exacerbated by the riot and the racial assumptions expressed by the white Chicagoans Johnson and Taylor's team interviewed were written into social science work and widely believed by white Americans long after the publication of *The Negro in Chicago*.

Inflammatory newspaper reports exacerbated fear of black criminality, which mixed with distrust for the criminal justice system. Johnson and Taylor, along with the grand and coroner's juries charged with investigating the riot, emphasized the need to root out corruption in Chicago's police force, to revise Illinois criminal justice practices, and to end toleration of vice districts in African American neighborhoods. The grand jury report echoed the widespread belief that "hoodlum elements" of both races were responsible for the riot, calling for the state government to revise its policy towards criminal recidivists. The grand jurors offered eleven recommendations to prevent further large-scale violent uprisings, six of which related to law

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*The Negro in Chicago: A Study of Race Relations and a Race Riot* (Chicago: The University of Chicago Press, 1922): xvii.

<sup>192</sup> This refers to the use of geography, rather than racial or ethnic origin as an explanation for criminality. Muhammad, *Condemnation*, 245-6.

enforcement and criminal justice administration. One among these read: “The parole law should be amended so that a criminal once paroled and subsequently arrested may not a second time be paroled.”<sup>193</sup> Such a revision of the law would mean that once parole agents returned a parolee to prison, that person would need to serve out the remainder of his or her sentence within the institution. Johnson and Taylor’s investigatory team spent only a small fraction of the study looking into the release of recidivists and the comparative conduct of white ex-prisoners and black ex-prisoners on parole. *The Negro in Chicago* addressed the grand jury’s recommendation, exposing the racial disparity in the reentry process. Compared to white prisoners, black prisoners served longer portions of indeterminate sentences, were less likely to be paroled, and had more difficulty finding suitable employment and lodging once released from the institution.<sup>194</sup> Experts interviewed, including the Central Howard Association’s head F. Emory Lyon (see Chapter 1), concluded that while he found “greater difficulty in dealing with colored men,” he estimated that “a little larger percentage of colored men make good on their paroles.”<sup>195</sup> Johnson’s report concluded that the “general lawlessness, crime, and vice in the whole population,” rather than in any specific subset of the population, was responsible for the escalation of the riots.<sup>196</sup> While *The*

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<sup>193</sup> Chicago Commission on Race Relations, *The Negro in Chicago*, 51.

<sup>194</sup> *Ibid*, 338.

<sup>195</sup> According to Lyon, this was because they could not afford housing in areas the Association considered reputable. Presumably, the reputable areas African American men and women on parole could afford to live in were white working-class neighborhoods where they were unable to rent units. See *ibid*, 337. For information on inflated housing prices and the presence of vice in African American neighborhoods, see Margaret Garb, *Freedom’s Ballot: African American Political Struggles in Chicago from Abolition to the Great Migration* (Chicago: University of Chicago Press, 2014), especially Chapter Five. According to Garb, black tenants paid rents from 10 to 50% more than those charged whites, and housing stock in black neighborhoods was poorly maintained (108).

<sup>196</sup> Chicago Commission on Race Relations, *The Negro in Chicago*, 327. *The Chicago Defender* concurred, but expressed concern over the speedy release several notorious white criminals obtained from Joliet shortly before the riots, and the privileged treatment white criminals received from police. The newspaper indicated that States Attorney Hoyne, who headed the grand jury investigation of the riots, “contributed to the laxity of law and order” in Chicago by failing to prosecute major criminal cases and granting immunity to notorious gangsters and thieves. See “Criticise Charge of Hoyne,” 1.

*Negro in Chicago* addressed the corruption and racism rampant in Chicago's courts and police force, the investigation did not search the ranks of paroled prisoners for riot instigators.

Chicago's problems with criminal violence would only worsen as a new decade began.<sup>197</sup> On January 16, 1920, the 18<sup>th</sup> Amendment prohibiting the manufacture, transportation, and sale of alcohol in the United States went into effect, opening up a host of business opportunities for organized criminals and corrupt politicians in Chicago. Brooklyn-born gangster Johnny Torrio of the Chicago Outfit became the first kingpin to benefit from the highly profitable distribution of alcohol in the city's underground economy. Torrio paid the city's politicians and policemen to look the other way as he built an empire of bars, brothels, and gambling dens. By the end of 1920, the Outfit had organized "a city-wide syndicate for the operation of breweries" and the transportation of alcohol throughout Chicago.<sup>198</sup> This network of breweries, bottling facilities, trucking operations, and speakeasies remained immensely profitable so long as Torrio and his right hand man, Alphonse Capone, gave a cut of the profits to mayor Thompson and other members of his administration.

Attention to crime and perception of rising rates of lawlessness in Chicago following the institution of Prohibition increased hostilities toward parole and probation throughout the state of

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<sup>197</sup> Laypersons and sociologists alike worried over rising rates of crime and violence in the city. In 1919, reported crimes in Chicago included 336 murders, 2,916 robberies, and 6,103 burglaries. Many more crimes doubtless went unreported and corrupt law enforcement officers may have obscured other offenses. According to historians' best estimates, between 1900 and 1925, Chicago's homicide rate tripled. See Edwin W. Sims, "Fighting Crime in Chicago: The Crime Commission," *Journal of the American Institute of Criminal Law and Criminology* 11 (1920-1921), 21 and Jeffrey S. Adler, "Less Crime, More Punishment: Violence, Race, and Justice in Early Twentieth-Century America," *Journal of American History* 102 (June 2015), 34-46. Adler, like Johnson, reminds his reader that much of the aggregate-level data collected by older reports provides a view of the number of crimes committed, the number of persons arrested and suspects charged, and the number of inmates in state institutions but does not make up for incomplete police records or reveal how many arrested persons were cleared and which crimes went unreported, et cetera.

<sup>198</sup> Pacyga, *Chicago*, 242. Torrio employed 800 people in the Chicago area alone and made millions supplying Chicagoans with illegal beer, wine, and spirits.

Illinois.<sup>199</sup> In 1920, when Len Small was enjoying his position as Governor-elect, Chicago Chief of Police Charles Fitzmorris requested that the new governor suspend the parole law upon entering office to reduce crime in the city. Fitzmorris complained that the Board of Pardons and Paroles released far too many prisoners and that the “present operation of the parole board constitutes an absolute interference with the Chicago police department.”<sup>200</sup> The *Chicago Tribune* concurred that same year with the publication of an opinion piece stating that the “principal effect [of the parole law] is to release professional criminals to prey upon the community.”<sup>201</sup> The paper bemoaned the release of “old offenders,” reprinting an editorial from the *Illinois State Register* that declared: “to parole a criminal with a ‘record’ is worse than an outrage.”<sup>202</sup> Resentment of the board would only grow as the 1920s progressed, especially because homicide rates doubled in the city in the first half of the decade alone.<sup>203</sup> Early in 1921, the *Los Angeles Times* declared that the “parole system has a sad string of failures behind it” and that the greatest difficulties faced by urban police chiefs were “furnished them by the army of paroled prisoners who flock to the great towns.”<sup>204</sup> Later that year, Chief Fitzmorris shared his department’s “new slogan” with the *Chicago Daily Tribune*: “Keep them in the penitentiaries

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<sup>199</sup> The idea that parole was partially to blame for high crime rates in American cities was widespread at this time. In many cases, parole was listed as one among several causes for the increase in crime following the world war, but some newspapers cited officers of the law or criminologists who believed that parole was the primary cause for crime waves in urban areas. See especially “Crime and Parole,” *New York Times*, December 27, 1922, 12; “Brand Indeterminate Sentence, Parole Plan, Crime Breeders,” *Los Angeles Times*, October 9, 1921, 1; “Ask Cities to Fight Paroles,” *Los Angeles Times*, December 29, 1920, II7; “Waves of Crime,” *Los Angeles Times*, January 31, 1921, II4; “Limitation on Parole Power Sought In Goodwin Measure,” *The Christian Science Monitor*, December 23, 1925, 1. In many of these articles, parole and probation are conflated.

<sup>200</sup> “‘End Parole of Convicts!’ Lock Doors of Prison a Year, Chief’s Appeal Asks Small to Aid War on Crime,” *Chicago Daily Tribune*, December 20, 1920.

<sup>201</sup> “The Parole Peril,” *Chicago Daily Tribune*, May 20, 1920, 6. At this point, the *Tribune* was run by the Republican-leaning Robert R. McCormick, but the paper presented itself as a champion of reform and as such often attempted to oust Republican machine politicians from public office. By 1925, the *Tribune* was Chicago’s most widely read newspaper. See Mark R. Wilson, “Chicago Tribune,” *The Electronic Encyclopedia of Chicago*, last modified 2005, <http://www.encyclopedia.chicagohistory.org/pages/275.html>.

<sup>202</sup> “Editorial of the Day: Plug Up the Parole Hole,” reprinted from the *Illinois State Register*, *Chicago Daily Tribune*, May 3, 1920, 8. Also see “Crime Crusades,” *Chicago Daily Tribune*, January 13, 1920, 8.

<sup>203</sup> Adler, “Less Crime, More Punishment,” 36.

<sup>204</sup> “Waves of Crime,” *Los Angeles Times*, II4.

and the citizens are safe.”<sup>205</sup> Despite the chief’s declarations and apparent good faith efforts to clean up the department, it was an open secret that policemen were usually tolerant of vice because profitable gangsters meant larger payouts to officers who studiously avoided enforcing the laws.<sup>206</sup> During Prohibition, police sold their feigned ignorance and protection to the highest bidders among “alky-cookers” and bootleggers. And when Fitzmorris left office in 1923, gang murders increased as mobsters hustled for the greatest slice of profits from liquor sales.

As neighborhood violence escalated with gang struggles over the vice trade, so did public disapproval of mayor “Big Bill” and his good time ways. Thompson chose not to run for reelection in 1923. In his place, reformer William E. Dever—who fully intended to enforce the prohibition law—assumed the mayoralty. This boded ill for Chicago’s gang leaders, and as Dever’s administration cracked down, Torrio and Capone moved their activities to Cicero, a suburb outside of the city. Even so, Dever was almost completely unable to enforce Prohibition laws and collusion between politicians and gangsters continued.<sup>207</sup> When Big Bill returned for another mayoral term in 1927, Capone moved back into the city, establishing headquarters at 22<sup>nd</sup> and Michigan on the south end of the Loop. With a political ally, Thompson, in the mayor’s office and Len Small in the Governor’s mansion, Capone found Chicago milder than it had been in 1923. In the latter half of the 1920s, gangs fought their wars and plied their trades openly on the streets of Chicago: gang leaders were gunned down while walking across major intersections, the *Chicago Tribune*’s crime reporter was shot while heading to the train station, and the Sicilian Genna brothers maintained a massive bootlegging operation just four blocks from a city police

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<sup>205</sup> “Long List of Parole Abuses Bared by Chief: ‘Keep Them in Prisons,’ His New Slogan,” *Chicago Daily Tribune*, April 4, 1921, 21.

<sup>206</sup> See Chapter 9, “The Guns of Chicago: The Police, Prohibition, and the Crim Syndicate, 1921-31” in Richard C. Lindberg, *To Serve and Collect: Chicago Politics and Police Corruption from the Lager Beer Riot to the Summerdale Scandal* (Carbondale: Southern Illinois University Press, 1998), 147-219.

<sup>207</sup> Edward Behr, *Prohibition: Thirteen Years that Changed America* (New York: Arcade Publishing, 1996), 149. Torrio moved back to Italy in 1925, leaving his Chicago operations to Capone.



station.<sup>208</sup> Gang-related incidents accounted for some of the shocking crime reports and statistics from Chicago, but historian Jeffrey S. Adler finds that many urbanites were alarmed less by gang turf wars than by other crimes.<sup>209</sup> Despite the lasting fascination with Capone and other bootleggers, the city's robbery rate—mostly unrelated to the illicit production of alcohol—accounted for much public concern over rising crime in the 1920s. Crime surveys and sensational exposés like the Leopold and Loeb case in 1924 highlighted the shortcomings of legal institutions just as many Americans came to expect their governing institutions to act in their best interest.<sup>210</sup>

### **“Crime Gets All the Breaks”: Politics and Parole Under Len Small**

The Division of Pardons and Paroles maintained that negative coverage of Governor Lennington “Len” Small and the Board was unfair, but critical reports flourished as the newspapers and the public contended with the “new breed of criminal” that ruled the streets in the 1920s.<sup>211</sup> Even during Small’s first term, before the grand jury investigation in 1926, newspapers affiliated with the Republican party and generally favorable to the Kankakee politician published articles and editorials demanding that “prompt action needs to be taken”<sup>212</sup> to reform the parole system. DeKalb County’s *True Republican* avoided hints that Small might be responsible for monitoring the actions of the Board, but despite its party affiliation blamed the “workings of the lax parole law of this state” for allowing criminals to avoid punishment.<sup>213</sup>

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<sup>208</sup> Daniel McDonough, “Chicago Press Treatment of the Gangster, 1924-1931,” *Illinois Historical Journal* 82, no.1 (Spring 1989), 20. John O’Brien, “The Shooting of Jake Lingle,” *Chicago Tribune*, 2018, <http://www.chicagotribune.com/news/nationworld/politics/chi-chicagodays-jakelingle-story-story.html>. Also see Pacyga, *Chicago*, 245.

<sup>209</sup> Adler, “Less Crime, More Punishment,” 38.

<sup>210</sup> Ibid. For changing expectations for legal institutions, see Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2009) and Cohen, *Making a New Deal*, especially Chapter 6.

<sup>211</sup> These modern criminals were armed with machine guns and fast cars, two technological developments that changed criminal activity and allowed organized syndicates to extend their reach across larger geographical areas.

<sup>212</sup> “The Parole Law and Crime,” *The Marion Semi-Weekly Leader*, May 6, 1921, 4.

<sup>213</sup> “Criminals Given Their Liberties,” *The True Republican*, May 8, 1920, 1.

Rumors about the Board swirled as the first years of the Small administration slipped away. Disparaging newspaper articles increased, and it was commonly believed by the public that paroles could be purchased with political influence or cash even before the scandal broke. Governor Small himself received at least one letter from a citizen suggesting that convicted persons with “proper connections to gang leaders” could obtain paroles easily and no longer had to fear “justice.”<sup>214</sup> Many more men and women bombarded Small with letters asking for his help to release their friends and family members, and in some cases, hinting at possible illicit traffic in pardons and paroles. One Philip Blumenthal, “a citizen + resident of the State of Illinois” and brother of an inmate at Joliet, wrote the Governor to say that he had been informed by several lawyers “that a certain amount of money would put [his] brother on the street.”<sup>215</sup> Mrs. Albert Johnson sent Small five dollars with the note “buy yourself some cigars,” hoping to ingratiate herself with the governor and obtain a pardon or parole for her husband.<sup>216</sup> While these letters do not directly implicate the Governor, they do offer snippets of the widespread rumors behind the allegations that would be evaluated by a grand jury in 1926.

Small’s penchant for pardoning had been subjected to public scrutiny years before Klein’s death.<sup>217</sup> In 1924, as the governor wrestled with Brundage in chancery court, the *Tribune*

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<sup>214</sup> Lilly to Small, April 21, 1924, ALPL.

<sup>215</sup> Mr. Philip Blumenthal to Governor Small, March 13, 1925, Lennington Small Papers Series II: Legislation and Departmental Files, Box 134, Folder 6, ALPL.

<sup>216</sup> Mrs. Albert Johnson to Governor Small, October 4, 1921, Lennington Small Papers Series II: Legislation and Departmental Files, Box 113, Folder 4, ALPL. Governor Small returned the money to Mrs. Johnson, but it is clear that she believed that the Governor was not averse to accepting bribes.

<sup>217</sup> In addition, Governor Small was no stranger to the opportunities for illicit profit that came with public office. The *Chicago Daily Tribune*, *The DeKalb Daily Chronicle*, and other Illinois newspapers ran hundreds of stories tracking how Small profited extensively from these opportunities over his years in state government, first as Treasurer and then as governor. During his second term as Illinois State Treasurer (1917-1918), Small and two associates allegedly stole over \$1,000,000 in interest belonging to the state, funneling the funds into a fictitious bank to avoid prosecution. While Small was acquitted in a criminal trial in 1921 during his first term as governor, it was later found that many of the jurors secured state positions following the decision in Small’s favor. In 1924, Attorney General Edward J. Brundage brought a chancery suit against Small, who was then ordered to pay the State of Illinois \$650,000, though he maintained that the sum was “not being ‘paid back’ to the state treasury” and that he had not personally profited from transactions involving state funds. The prison break in May 1926 brought hints of another

ran an article suggesting that Small could be subject to impeachment for pardoning and commuting the sentences of convicted criminals for “personal and political reasons.”<sup>218</sup> These rumors probably damaged Small’s campaign for reelection in 1924, though he still won over the Democratic candidate, Norman L. Jones. The Chicago Crime Commission, a special committee formed by the Chicago Association of Commerce in 1919, argued in the midst of the gubernatorial race that law enforcement was struggling to combat the effects of Small’s abuse of the pardon power.<sup>219</sup> Small’s supporters also reached out to warn him of the damage that pardons and the parole system were inflicting upon his reputation. One ally wrote: “the pardon and parole system has created strong sales resistance and cost you more votes than any other thing that has happened since you took office.”<sup>220</sup>

During the 1924 election, Small’s political supporters and opponents tried to use or twist his pardon record and the Board’s parole record to achieve their own ends. In campaign rhetoric, Len Small was portrayed as either a generous soul bestowing mercy on unfortunates or a grafter making deals with corrupt politicians and the criminal underworld. Anti-Small canvassers reprinted articles from the *Chicago Daily Tribune* as a pamphlet to distribute in black neighborhoods. The pamphlet was designed to remind African Americans that the governor often paroled or pardoned white criminals convicted of felonies, leaving black men convicted of lesser

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scandal that would eventually be traced back to the administration of the “good roads governor” in Springfield. See “Pushing Quiz on Len Small Case Jury: Lake County Seeks Facts on Acquittal,” *Chicago Daily Tribune*, March 14, 1923, 1; “Threats Made in Small Jury ‘Fixing’ Inquiry: Call Witnesses for Quiz by Jurors Tomorrow,” *Chicago Daily Tribune*, March 25, 1923, 12; “May Again Try Small: State May Revive the Old Accusation on Which He was Acquitted,” *The DeKalb Daily Chronicle*, April 19, 1923, 7. Also see Len Small, as quoted in “Len Small Pays State \$650,000 Interest Refund: Certified Check Satisfies Court Judgment,” *Chicago Daily Tribune*, July 16, 1927, 4.

<sup>218</sup> Oscar Hewitt, “Small’s Pardon Habit Recalls Fate of Walton: Latter Thrown Out for ‘Personal’ Paroles,” *Chicago Daily Tribune*, January 28, 1924, 6.

<sup>219</sup> Oscar Hewitt, “Crime Foes Take Jab at Small’s Pardon Abuses: Assail Governor, Parole Board, and Legislators,” *Chicago Daily Tribune*, January 30, 1924, 10.

<sup>220</sup> Mr. L.E. Lilly to Hon. Len Small, April 21, 1924, Lennington Small Papers Series II, Box 133, Folder 6, ALPL.

crimes in prison to serve the maximum penalty for their acts.<sup>221</sup> Other pamphleteers targeted women voters. In March of 1924, the Independent Women's Anti-Small Committee released a leaflet refuting statements made by Governor Small that minimized his responsibility for the actions of the Division of Pardons and Paroles. The Committee presented the parole law as a "righteous and generous" one, but claimed that the Governor had misused it to "let loose upon the community unregenerated [sic] criminals to endanger the honor of women and children."<sup>222</sup> The *Tribune* printed excerpts from the leaflet in March of election year. Small's abuses of the parole system to advance his own interests may or may not have involved granting paroles and pardons in return for political or monetary favors, but it certainly included the use of parole agents for the purpose of advancing his campaign.

In a strange twist, Small's campaign management deputized parole agents to gauge "political conditions"—read: level of support for Governor Small—in each district.<sup>223</sup> From Streator, a small city 81 miles south of Chicago, Parole Agent Bert Carter reported an interaction he had with a telegraph operator while sending a parole violation report to the Warden at Joliet: "The young man... remarked 'Well this is some of the old stuff that Mr. Essington [Thurlow G. Essington, Small's opponent in the primary] was fighting.'" Carter then engaged the operator in conversation and "found that he had absorbed the stories which the *Tribune* had been printing."<sup>224</sup> Seeing an opportunity to both defend his profession and win a vote for Small, Carter launched into the stories of "several men and boys who had made good upon parole" and

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<sup>221</sup> Robert A. Waller, "Norman L. Jones Versus Len Small in the Gubernatorial Campaign of 1924," *Journal of the Illinois State Historical Society* 72 (August 1979), 165.

<sup>222</sup> Oscar Hewitt, "Small Pardon Regime Under Fire of Women: Has Violated Sacred Trust in Paroles, They Say," *Chicago Daily Tribune*, March 23, 1924, 6.

<sup>223</sup> Will Colvin to Mr. Sutton, attn.: Len Small, October 27, 1924. Also see Colvin to Sutton, "Reports by Parole Agents of Local Situations in Their Districts," both in Lennington Small Papers, Series I: Box 20, ALPL.

<sup>224</sup> Bert Carter to Will Colvin, September 5, 1924, Lennington Small Papers Series I: Box 20, ALPL.

promised to mail the telegraph office a pamphlet on the parole system.<sup>225</sup> Many of the extant reports describe the parole agents' work countering the accusations made by the *Tribune*, Essington's campaign, and various Democratic candidates at the state and local level. Despite the *Tribune's* fiery campaign against Small, a parole agent deputized to ascertain the level of support for the Governor found that many neighborhoods in Chicago favored him, the newspaper's impressive circulation numbers aside.<sup>226</sup>

Republican-leaning newspapers in favor of the incumbent candidate also did their part, working to minimize Small's association with the parole board administered by Will Colvin during the campaign. These papers proudly announced that the incumbent pardoned fewer convicts than had Governor Lowden before him.<sup>227</sup> But by 1925, well into Small's second term, *The True Republican* ran a front-page story entitled "Justice Fails in This County" reporting that officials across the state were "disgusted with the method used by the Board" and that many were "firm in the belief that the terrific record of crime in this state is largely due to the influence of the Board of Pardons and Paroles."<sup>228</sup> *Tribune* reporter Oscar Hewitt, who probably wrote many of the stories printed in the pamphlet distributed to black voters during the campaign, continued to assail Small following his reelection.<sup>229</sup> Though Hewitt's stories were intensely critical of what he called the governor's "pardon habit" and intimated that the parole board might

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<sup>225</sup> Ibid.

<sup>226</sup> Parole Officer Harry H. Gerber to Will Colvin, October 15, 1924, Lennington Small Papers Series I: Box 20, ALPL. Another parole officer reported that the South Side, a majority African American neighborhood, seemed "favorable to present administration." See R. Kappleman to Will Colvin, October 14, 1924, Lennington Small Papers Series I: Box 20, ALPL. By 1925, daily circulation was at 650,000 copies and the *Tribune* was the most widely read newspaper in the city of Chicago. "Chicago Tribune," *The Electronic Encyclopedia of Chicago*.

<sup>227</sup> "Pardon Talk Is Foolish," *The DeKalb Daily Chronicle*, April 5, 1924, 1.

<sup>228</sup> "Justice Fails in This County: Largely Thru Methods of Board of Pardons," *The True Republican*, December 16, 1925, 1-2.

<sup>229</sup> See, for example, Oscar Hewitt, "Crime Foes Take Jab at Small's Pardon Abuses: Assail Governor, Parole Board, and Legislators," *Chicago Daily Tribune*, January 30, 1924, 13; Oscar Hewitt, "Small Pardon Regime Under Fire of Women: Has Violated Sacred Trust in Paroles, They Say," *Chicago Daily Tribune*, March 23, 1924, 6; Parke Brown, "Here is Roll of Desperadoes Given Liberty," *Chicago Daily Tribune*, December 15, 1925; "Supreme Court Orders Inquiry on Perry Parole," *Chicago Daily Tribune*, December 17, 1925, 2.

be more lenient on men with political connections, the *Tribune* did not seriously advance the idea that officials in Springfield might be taking illicit bribes until late in 1925. Even then, lack of evidence seemed to require that the story take the form of a short editorial.

The decision to print the suggestion that Small's administration and the Division of Pardons and Paroles might be guilty of more than leniency that contributed to rising crime rates followed a busy month for parole in the press. Early in December, Chicago was shocked by the parole of convicted double murderer and prolific hold-up artist Ira D. Perry, Jr., following Small's commutation of his sentence. Under the weight of two murder convictions, Perry was originally sentenced to live out the remainder of his natural life in prison, but only spent three years inside before his sentence was commuted to "the equivalent of a manslaughter conviction" by Small and he was released on parole.<sup>230</sup> Perry's father was a wealthy businessman and inventor of the Perry automobile lock; one of the most popular steering wheel locks in the United States and advertised as "The Only Lock That Thieves Won't Touch."<sup>231</sup> The elder Ira D. Perry's wealth and influence caused newspapers to speculate that his son's release might have been obtained through political influence, and the younger Ira's parole was deeply unpopular.<sup>232</sup> One states attorney declared that if Perry were released, Chicago law enforcement would arrest him as he left Joliet and try him on new charges. In fear of being sent back to prison, Perry Jr. violated the terms of his parole almost immediately by failing to report to his employer in Des

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<sup>230</sup> "State Paroles Another Killer from Life Cell: Ira Perry Jr., Son of Rich Man, Is Free," *Chicago Daily Tribune*, December 9, 1925, 1.

<sup>231</sup> Advertisement, "'Perry,' The Only Lock That Thieves Won't Touch," *Automobile Trade Journal* 22 (1917): 107. Ironically, it seems that the inventor's son would later be revealed as one of the criminals drumming up business for his father—Perry Jr. confessed to over 100 car thefts. See "Call Perry Parole Fraud: Bar to Fight Release Before Supreme Court," December 12, 1925, 1.

<sup>232</sup> So unpopular, in fact, that outraged representatives of the Chicago Bar Association descended on Springfield to ensure a thorough investigation of the Board's decision. See "Perry the Innocent," *Chicago Daily Tribune*, December 24, 1925, 6; "Parole Board Exposed," December 15, 1925, *Urbana Daily Courier*, 1; "Invade Capital in Parole War: Attorneys Today Demand Perry Back in Cell," *Chicago Daily Tribune*, December 14, 1925, 1.

Moines, Iowa. He was soon captured and sent to Menard to serve out the remainder of his sentence.

In the wake of Perry's return to prison, Parole Commissioner Colvin spoke to the annual convention of Illinois state attorneys explaining the particulars of the procedure and conduct of his division. By the *Tribune's* account, the convention was not a receptive audience and Colvin's speech elicited some sharp replies, though the attorneys agreed that parole laws could benefit society if properly implemented.<sup>233</sup> The lawyers present for Colvin's address suggested that the Board should notify prosecutors when cases they tried in the past were to be heard by the Board, and that they be able to present arguments against releasing prisoners if they considered it necessary. State's Attorney Charles F. Evans told the *Decatur Herald* that if "the state's attorneys knew when to combat the applications" of "murderers, bandits and thugs" for parole, "fewer of them would be turned loose."<sup>234</sup> Colvin evidently dismissed these concerns, asking "what is the use of such notice if the state's attorney has put all his facts in the record?"<sup>235</sup> Recounting Colvin's response gave the editor an opening anecdote for his critique of the board. And a contemporary parole scandal in Kansas allowed him to suggest: "The experience of sister states in which paroles have been bought and sold is a reminder that a dishonest administration of the parole law is not unknown in this country."<sup>236</sup> While the use of the Kansas case as a device allowed the *Tribune* to cultivate public suspicion, Kansan Governor Jonathan M. Davis's sale of executive clemency was far less complex than the scandal that would hit Springfield only a year later.<sup>237</sup>

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<sup>233</sup> "Crime Gets All the Breaks," *Chicago Daily Tribune*, December 30, 1925, 8.

<sup>234</sup> "Urges Parole Advance News for Officers: Evans Thinks Publicity Would Keep Prisoners Behind Bars, Presents Law's Side," *Decatur Herald*, January 1, 1926, 3.

<sup>235</sup> "Crime Gets All the Breaks," 8.

<sup>236</sup> Ibid.

<sup>237</sup> In January of 1925, Governor Jonathan M. Davis and his son, Russell Davis, were arrested and charged with accepting a bribe from "bank wrecker" Fred Pollman in exchange for a grant of executive clemency. Davis was

## Mystery Notes

Three days after Rizo and his companions stabbed the Stateville Deputy Warden to death and made off with his automobile, the *Chicago Daily Tribune* reported that a Cook County grand jury called to investigate gang wars and a Will County grand jury investigating conditions at Joliet penitentiary were cooperating to sift through new evidence contained within the letters found close to Klein's body. The *Tribune* promised "sensational disclosures" from "new clews [sic]" in the correspondence, which consisted of communications between Klein and imprisoned men.<sup>238</sup> Though the text of most of the documents was never explicitly revealed in the pages of the newspaper, they would eventually be submitted to the grand juries for perusal. The *Tribune* did, however, offer a stirring description of the scene by attesting that the letters were "scattered about the slain Warden Klein."<sup>239</sup> The warden was lying on top of evidence that would later be introduced in court to suggest that he was instrumental in drumming up inmate clients for an alleged "parole mill" supposedly operated by Klein, Messlein, and Colvin. According to a later story, there was evidence in the Warden's office that indicated that he had attempted to destroy the letters before he died.<sup>240</sup>

The positioning of the letters could have been due to Klein's dying struggle to dispose of them, or it could have been pure chance. Perhaps they were knocked off his desk during the struggle. But the arrangement of the scene might have been a deliberate action of the convicts who stabbed him. According to Warden Whitman, prisoners at Stateville and Joliet believed that "they had to have money or powerful political friends to get out of the penitentiary" and that if

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placed under arrest immediately after his retirement as governor. "Kansas Governor Will Be Arrested as He Retires Today," *New York Times*, January 12, 1924, 1. Also see "Kansas Parole Graft Charges Involve Others," *Chicago Daily Tribune*, January 16, 1925, 2.

<sup>238</sup> "Bare Slain Warden's Notes: Joliet Jury to Hear Mess of Prison Regime," *Chicago Daily Tribune*, May 9, 1926, 1.

<sup>239</sup> *Ibid.*

<sup>240</sup> "Mystery Notes in Prison Quiz Promise Thrill: Nathan Leopold Is Escape Witness," *Chicago Daily Tribune*, May 8, 1926, 1.



they did not have access to capital or to politicians, they “couldn’t get out” no matter how good their record was.<sup>241</sup> Captain Keeley, the guard kidnapped by the seven escapees, later testified that the prisoners told him that it was worth it to chance being sentenced to death for killing the warden and fleeing Stateville: “The only way we would ever get out of here is this way.”<sup>242</sup> Other inmates who believed they would never be released on parole had climbed over the wall surrounding the prison to seek their freedom, and some had even left notes behind explaining their actions. In one case, a prisoner wrote to Warden Whitman that he had paid \$600 to ensure his release, but that he had not yet received a parole and was fleeing the prison to see Governor Small to find out what was happening with his case.<sup>243</sup>

Rizo and his companions may have made sure to place incriminating evidence where any observers of the scene could not fail to notice it—next to the body of the man it implicated. This theory becomes all the more compelling when we consider that the Will County grand jury assigned to make a routine inspection of Stateville was scheduled for the very morning that the seven inmates escaped. The grand jury, while touring the grounds, actually saw the seven prisoners and Keeley drive off in the warden’s car.<sup>244</sup> In addition, the notes around Klein’s body provide a clear motive for his murder. It was not necessary for the seven prisoners to kill Klein in order to escape, and they did not kill anyone else, including several guards and trustees they incapacitated and locked in solitary cells. They could have knocked the deputy warden unconscious if he had attempted to prevent their escape. Moreover, there is no sign that Klein

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<sup>241</sup> “Freedom was Easy to Get: Hundreds of Convicts with Political Friends Said to Have Been Freed,” *The DeKalb Daily Chronicle*, May 18, 1926, 1.

<sup>242</sup> *Ibid.*, 6.

<sup>243</sup> *Ibid.*, 6. Escapes from Stateville and Joliet were frequent occurrences during this period, especially from Joliet’s Honor Farm. See “Prison Escape Bribe Tale Recalls 98 Convicts’ Flights,” *Chicago Daily Tribune*, May 30, 1926; “Attack Honor Farm After 28 Escapes in Last 18 Months,” *True Republican*, July 22, 1925, 7; “Escape-Proof is Misnomer at Joliet,” *Los Angeles Times*, November 12, 1919, 5.

<sup>244</sup> “Link Jail Break to Pardons: Will County Prosecutor to Grill Fixers,” *Chicago Daily Tribune*, May 7, 1926, 1.

possessed any of the keys they needed to aid their escape in the first place, and no reason he would have put up a fight on his own to try to stop the fleeing prisoners. The inmates had all asked to meet with Klein that morning to discuss prison conditions, which may have been a plot to ensure that they were all in the same place at the same time to set the escape in motion. Or perhaps they needed to be in the solitary building to free Nathan Leopold, as they claimed early in the grand jury investigation. Either way, they would have had no reason to enter Klein's office once they were all in his waiting room.

But by all accounts, they did choose to meet with Klein and waited until the deeply unpopular warden called them into his office. Former guard Julius Horney testified to the Will County grand jury that several different inmates had told him "that it was going to be only a question of time before they were going to get him [Klein]." <sup>245</sup> Though the seven escapees denied planning to kill Klein, they may have done so to avoid the death penalty. If this was their aim, it was unsuccessful. Duchowski, Shader, Stalesky, Roa, Rizo, and Torrez were sentenced to hang for Klein's murder. <sup>246</sup> Still, a silenced Klein would no longer be able to keep incriminating correspondence under wraps. The escape plot itself may have involved both the exposure of Warden Klein's illicit activities and his murder. It is very possible that the seven men wished to draw the touring grand jury's attention to documents that could reveal the secret business arrangements that drove them to free themselves rather than take a chance on the Board of Pardons and Parole.

Whatever their motivations—or lack thereof—Klein's murder gave the States Attorneys "another strong link... in the chain of evidence" they had already collected and prompted the

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<sup>245</sup> "Parole Board Members Go Before Grand Jury: Paroles to Be Sifted," *The DeKalb Daily Chronicle*, May 21, 1926, 6.

<sup>246</sup> "Hanging Decreed for Six Joliet Convicts Who Slew Deputy Warden in Escaping," *New York Times*, November 27, 1926, 2.

prosecutors to release information to the press.<sup>247</sup> The bulk of this information concerned former head of the Volunteers of America's Hope Hall, Major M.A. Messlein, and originated from Messlein's own records, which were seized for inspection by a Cook County grand jury called to investigate "all causes of crime, including the parole evil."<sup>248</sup> The initial body of evidence suggested that Messlein's company, the Major Engineering Corporation (sometimes referred to as the Messlein Engineering Company), served as a shield for the illicit purchase of release from the penitentiary. The Major allegedly dealt with friends and family members of inmates looking to buy paroles, requesting that they purchase stock in his company before he used his influence with the Board to reunite them with their convicted friend or relative. His company's connections to the Board were apparently visible on the Corporation's letterhead: Will Colvin, who had been given \$25,000 worth of stock by Messlien, was treasurer of the company, and Deputy Warden Peter M. Klein was vice president.<sup>249</sup>

When prosecutors seized the Corporation's records and interviewed Messlein, the Major appeared proud of his connections with the Board and revealed that he had sponsored 8,000 men released from prison over the course of his career. He claimed that, "he had helped many wrongdoers back to a new, orderly life... and expected to continue doing so."<sup>250</sup> Among Messlein's papers were copies of letters detailing attempts to obtain the release of Pete McCann, a man associated with the Egan's Rats bootlegging gang of St. Louis. Major Messlein was very deliberately not referenced by name in the letter from the head of Chicago's Institution Supply Company, John W. Gibbons, to Alex R. Meier of St. Louis concerning McCann's release, but

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<sup>247</sup> "Bare Slain Warden's Notes."

<sup>248</sup> "Blow Lid Off State's Pardon-Parole: Carlstrom and Crowe Uncover Amazing Facts," *Chicago Daily Tribune* May 6, 1926, 1.

<sup>249</sup> Ibid.

<sup>250</sup> Ibid.

was praised as “the very best in Illinois on this class of work.” Gibbons promised Meier that if the unnamed man (whom, from contextual details, the press assumed to be Major Messlein) was given \$10,000 plus funds sufficient for “two or three trips” to Springfield to confer with “the powers that be,” Pete McCann would soon be “out on the street.”<sup>251</sup>

The papers surrounding Warden Klein, as the *Tribune* would later report, further implicated Will Colvin and the Major in what state prosecutors referred to as a pardon and parole syndicate. States Attorney Hjalmar Rehn released material contained in Klein’s documents on May 8, including a note attesting to the ability of Messlein to obtain paroles for convicts who could pay for it. An ex-prisoner authored this note and sent it to an inmate named “Red” in an apparent attempt to explain how Red could purchase release from prison. Red’s “old pal” assured him that he would “put whatever dough as need up for you” and that he was working to obtain Red’s release through Major Messlein. This ex-inmate, who signed off as “Larry,” was optimistic in the note, and wrote to Red that Messlein had already assisted him in a similar manner:

I intend to see M. Messlein as he took care of me when I was out. He squared a rap for me and got my discharge... You know he is in business with W. Colvin and he stands strong with him. If you want me to see some other party why let me know. But I am certain Messlein can spring you.<sup>252</sup>

Without the evidence that Klein had attempted to destroy the letters surrounding his body; the documents authorities seized from Major Messlein’s personal files; the financial connections between Messlein, Colvin, Deputy Warden Klein, and parolees discovered in the Major

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<sup>251</sup> John W. Gibbons as quoted in “Prosecutors Get Messlein-Small Letters: Parole Expose Brings in Name of Governor,” *Chicago Daily Tribune*, May 7, 1926, 1.

<sup>252</sup> “Prison Letters Mix Crime and Pardon Plots,” *Chicago Daily Tribune*, May 9, 1926, 1. Also reprinted in “Illinois Pardon Expose in Sight: Special Grand Jury on Warm Scent: Officials Said to Be Mixed Up in Scandal, Notes from Convicts Found,” *Los Angeles Times*, May 9, 1926, 13.

Engineering Corporation; and testimony from Warden Whitman during the grand jury investigation into Klein's death, those at the scene may have assumed that the documents near Klein were pieces of illicit correspondence confiscated from Stateville inmates. This context placed the letters in a more sinister light and may have caused authorities to read criminal activity into all of the written material found near Klein.

After chasing several false trails, the State's Attorney's questioning of members of the Flat Janitor's Union in relation to their purchase of stock in the Major Engineering Company gave investigators a promising lead.<sup>253</sup> During the 1910s, the Chicago Flat Janitors' Union organized most of the city's janitors who worked in buildings with apartments.<sup>254</sup> By 1921, the Flat Janitors were an influential political force, allied with Republican mayor Thompson. But as labor struggled to maintain the gains of the war years, big business and property interests in Chicago sought to undermine union influence.<sup>255</sup> While these efforts were perhaps most visible in "industrialists' rejection of social legislation" and promotion of welfare capitalist programs,<sup>256</sup> a grand jury investigation of city property owners' allegations against unionized janitors made headlines across the country in 1921.<sup>257</sup> Complainants charged that President of the Flat Janitors' Union William Quesse and nine other union officials masterminded a campaign of "labor terrorism," threatening tenants with physical violence and engaging in property destruction when

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<sup>253</sup> See "Prison Letters," 1 for a discussion of leads investigators dropped quickly, including a note about a business opportunity the grand jury believed might be coded to hide its relations to pardons and paroles.

<sup>254</sup> John B. Jentz, "Unions, Cartels, and the Political Economy of American Cities: The Chicago Flat Janitors' Union in the Progressive Era and 1920s," *Studies in American Political Development* 14, no. 1 (Spring 2000), 51. By 1917, the local boasted over 6,000 members.

<sup>255</sup> David Montgomery, "Immigrants, Industrial Unions, and Social Reconstruction in the United States," *Labour/Le Travail* 13 (Spring 1984), 101-113.

<sup>256</sup> Cohen, *Making a New Deal*, 182.

<sup>257</sup> This legal action occurred just as the Flat Janitors' Union emerged on the national stage by joining with union leaders from St. Louis, Boston, Seattle, and New York to form the Building Service Employees International Union. John B. Jentz, "Citizenship, Self-Respect, and Political Power: Chicago's Flat Janitors Trailblaze the Service Employees International Union, 1912-1921," *Labor's Heritage* 9, vol. 1 (Summer 1977), 6.

building owners refused to pay penalty fees for violations of union rules.<sup>258</sup> Building owners also objected to the strikes the Flat Janitors' Union mounted each time the union's agents could not resolve disputes between janitors and property owners. Union pickets halted janitorial services and stopped teamsters' deliveries of coal, ice, milk, and groceries. What owners and many leading newspapers called corruption and extortion was the union's attempt to enforce "a collectively bargained labor agreement" endorsed by the city's political leaders.<sup>259</sup> These strikes, however, often escalated in a way that must have been extremely onerous for apartment tenants—members of the Flat Janitors Union picketed outside front doors, dumped garbage in building entryways, and set off stink bombs during collective actions. Investigation of Quesse's organizing tactics landed him in prison in 1922.

While the *Los Angeles Times* maintained that this verdict was the "greatest victory the State has so far won in its fight against union labor terrorists," Small soon negated the ruling by extending clemency to the convicted union leaders.<sup>260</sup> This decision followed several months of petitions and letters from labor movement allies on the one hand, and real estate interests on the other.<sup>261</sup> Thanks to Small's pardon, by 1926 Quesse became president of the Illinois Federation of Labor and held more power than ever. The *Tribune* alleged that Quesse paid Small for his pardon by throwing his political weight behind the governor's 1924 campaign for reelection. The Flat Janitors' Union leadership sent pledge cards to its members, urging them to promise their votes to Governor Small, and Quesse also used the connections he made during years of alliance

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<sup>258</sup> "Prison Terms for Him and His Nine Aids: Verdict Held Blow to Bombers," *Chicago Daily Tribune*, June 10, 1922, 1.

<sup>259</sup> Jentz, "Unions, Cartels," 60.

<sup>260</sup> "Union Extortionists Guilty of Conspiracy: Flat Janitors' Head and Nine Other Officers Face Penitentiary Terms in Chicago," *Los Angeles Times*, June 10, 1922, 1.

<sup>261</sup> See Lennington Small Papers Series I: Box 20, ALPL; especially Hyde Park Hotel Owners Association to Governor Len Small, January 1924; Wagner Brothers Real Estate and Mortgage Bankers to Governor Len Small, January 24, 1924; Alderman Oscar F. Nelson of the 46<sup>th</sup> Ward (on behalf of Mrs. Else Quesse) to Henry Beckman, January 2, 1924; The Chicago Real Estate Board to Governor Len Small, February 8, 1924; and many others.

with Chicago's Mayor Thompson to garner additional support for Small.<sup>262</sup> Small pardoned Quesse and his fellow Janitors' Union leaders just four days after his victory in the 1924 election, raising the suspicions of Small's political enemies.

The Flat Janitors' Union did not escape further scrutiny during Small's second gubernatorial term. State's Attorney Crowe found records of stock purchases that linked the union's rank-and-file to Major Messlein's Major Engineering Company. Evidently, most men in this union bought stock in the company at the behest of union officials, including Quesse, who praised and promoted the stock at union meetings.<sup>263</sup> All of the janitors questioned told investigators that they bought the stock as a speculative investment and denied that they had any interest in obtaining pardons or paroles for friends in the penitentiary. But former convicts who testified before the grand jury claimed that it was common for Messlein to request that prospective parolees purchase stock in his company. According to the *Tribune*, stock in the Major Engineering Company qualified as a highly speculative investment. The only brick-and-mortar location operated by the company, the paper reported, was a "small shack at 3411 Indiana Avenue."<sup>264</sup> Despite its unimpressive façade, Messlein's company certainly attracted powerful investors: investigators found that purchasers of Major Engineering Corporation stock included Klein, Governor Small, Colvin, and Illinois Director of Public Welfare Chauncey Jenkins.

#### **"To Ascertain the Truth:" The Grand Juries Investigate<sup>265</sup>**

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<sup>262</sup> Parke Brown, "Quesse Seeks Pardon; Works for Len Small: Janitors' Union Signs Up Len's Pledge Cards," *Chicago Daily Tribune*, December 21, 1923, 7. Also see Jentz, "Unions, Cartels," 66.

<sup>263</sup> "Chicago Janitors Say Pardoned Men Sold Major Stock: 'Parole Mill' Inquiry Takes Up Freeing of Ten Heads of Their Union," *The Washington Post*, May 10, 1926, 17.

<sup>264</sup> "Kill First or Be Killed, Says Spike O'Donnell: Tells Special Grand Jury of Rum World Life," *Chicago Daily Tribune*, May 8, 1926, 4.

<sup>265</sup> Report of Grand Jury Impaneled in May, A.D. 1926 to the Honorable Frank L. Hooper, Presiding Judge of the Circuit Court, Will County, in Lennington Small Papers Series X: Box 361, Folder 14, ALPL. The grand jury was composed of John Hayden, George Schoettes, Proman W. Smith, Fred Boehme, Richard Hensel, Harry L. Reed, F.O. Morse, H.C. Demmond, James Rigoni, Christ Bruggeman, Henry Buchmeier, Walter George, Louis C. Thiede, Joseph Keeley, John E. White, and Joseph Boylan.

The investment histories of unionized janitors and Springfield politicians soon took a backseat as investigators pored over prison records, reconstructing Klein's professional past, parsing his relationship to Messlein and Colvin, and searching for a motive for his murder. At the center of these efforts were two grand juries, convened just days before the Deputy Warden's death. In Cook County, State's Attorney Frank Crowe and Attorney General Oscar Carlstrom tasked the first of these assemblies of men with investigating gang warfare, with specific attention to an alleged alliance between gang members and politicians blamed for "a breakdown in law enforcement."<sup>266</sup> The second grand jury, called in Will County to make a routine inspection of Stateville before Klein's death, was reconvened after May 5 to probe the killers' motives and the circumstances surrounding the murder. As mentioned earlier, this grand jury was actually in the process of touring the penitentiary at the time of Klein's murder.<sup>267</sup> Following a two-week process, the grand jurors weighed in on the motives behind the grisly crime, declaring that they lay in prisoner dissatisfaction with the mismanagement of the institution—the very situation they were originally organized to investigate.

Deputy Warden Klein's death at the hands of men in his charge gave the Will County grand jury their first question to answer as well as their first clue. The motive for the crime and the reasons for carrying out the murder in such a brutal way remained unclear, but the mere fact that seven armed men could escape supervision long enough to enter Klein's office at the same time demonstrated to the jury that "there was something wrong with conditions at the prison."<sup>268</sup> This was by no means a novel revelation. The number of prisoner escapes from Joliet, Pontiac

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<sup>266</sup> "Crowe Turns Crime Inquiry Over to Carlstrom: Special Grand Jury to Start Action Today," *Chicago Daily Tribune*, May 3, 1926, 1. This section of the paper will focus mainly on the Will County grand jury, as their written report was mailed to Governor Small and thus is part of the public record.

<sup>267</sup> "Will Probe All Paroles: Two County Grand Juries Plunge Into Investigation of Prison Ethics," *The DeKalb Daily Chronicle*, May 7, 1926, 1.

<sup>268</sup> Report of May, A.D. 1926 Grand Jury to Hooper.



Reformatory, the new prison at Stateville, and the Vandalia Honor Farm—with its comparatively lax security—were notoriously high.<sup>269</sup> But the grand jury’s access to the prisons’ records and the 110 witnesses summoned to give sworn testimony revealed that problems at Joliet and Stateville went beyond lax supervision, the prevalence of physical violence, and bad food. Poor conditions within these institutions, however, may have been the product of the corruption the grand jury worked to uncover. Bafflingly, the grand jury report attempts to separate these accusations of corruption from reports of poor conditions at the penitentiary. In addition, the report steered away from discussions of Klein’s murky past and negligent management style (though this management style likely hastened his demise), perhaps because they wished to foreground discussions of potentially corrupt officials who remained alive and in power.

As deputy warden, however, Klein had direct access to the kinds of prisoners prosecutors worried were going free after minimal time served to resume their lives of crime. Moreover, reports emerged that Klein secured his position at the prison through the political pull of Frank Parker, a Chicago bootlegger, and ran the prison to cater to the needs and desires of Parker’s friends and associates, “the most notorious prisoners in the penitentiary.”<sup>270</sup> The deputy warden allowed his favorite prisoners to roam the Stateville grounds freely, to eat better food than the majority of the prison population, and to transfer to the honor farm.<sup>271</sup> And money apparently did change hands.

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<sup>269</sup> The grand jury even reported that prisoners were “entrusted with the work of repairing cell door locks, without the supervision of anyone in authority.” See *Ibid.*

<sup>270</sup> Dean Albert J. Harno, “Memorandum, [of interview with Frank Kness]” March 22, 1927, in the Ernest Watson Burgess Papers, Box 34 Folder 8, Special Collections Research Center, University of Chicago Library (hereafter SCRC-UCL).

<sup>271</sup> Under the merit system, transfers to the honor farm were given to well-behaved and industrious prisoners as a kind of preparation for their lives on parole. The intention was for the men to learn farming trades and to transition back to society by spending some time in an institution where they were given more freedom than they were at the penitentiary. Rumors swirled that the farm under Klein’s administration was “a place of prostitution and profligacy,” where no one did any work and men threw wild “booze parties” where they consorted with local women. Quotes obtained from Report of May, A.D. 1926 Grand Jury to Hooper.

The investigation also uncovered conflicts between prison officials, but poor conditions at the prisons and these power struggles were not at the heart of the turmoil at Joliet and Stateville. Rather, the grand jury believed that the prisoners lost the flicker of hope they relied upon: the faith that they would one day leave the institution, and that they could shorten their own sentences by cooperating with prison officials. The inmates and former inmates called to testify expressed the conviction that “money and influence” could buy “favors, transfers to the [Honor] farm, and paroles.”<sup>272</sup> While only one witness to the Will County grand jury claimed that he himself had paid for his release on parole, the jurors concluded that men who succeeded in obtaining their paroles through bribery or graft would be largely unwilling to risk re-incarceration by testifying. The assembled jurors sat through hours of hearsay evidence and concluded that the “circumstances... seem[ed] to confirm that these privileges and releases have been bought and paid for.”<sup>273</sup> As prisoners widely believed that Deputy Warden Klein was involved in the subversion of the merit system, he was not popular at Stateville. Klein’s successor, Frank Kness, said that large sums of “money passed through [Klein] to prisoners, and from prisoners and their affiliations to him.”<sup>274</sup> While it is unclear if Kness—a man with 20 years of experience in corrections relegated to guarding the cold storage unit under Klein—was ever interviewed by the grand jury, he spoke extensively about his predecessor to University of Illinois researchers who visited the prison in 1927. He recalled hearing that “grands,” or thousands of dollars, changed hands for the purpose of “springing” inmates from the penitentiary. Kness also remembered that Klein had a few dangerous habits, including a

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<sup>272</sup> Ibid. The grand jury indicated that “communist and bolshevik [sic] propaganda circulated within the institution” probably helped to solidify and spread this sentiment among prisoners.

<sup>273</sup> Ibid. Evidence presented to the grand jury included numerous accounts of large sums of money given to attorneys who professed to have influence over the Board in addition to testimony suggesting that many prisoners represented by members of the Illinois Senate and House of Representatives before the Board were released following their parole hearings.

<sup>274</sup> Harno, “Mamorandum,” March 22, 1927.

penchant for carrying and flashing a bill case “with a \$50 bill on top, and a \$50 bill below” within the prison.<sup>275</sup>

Despite these reports, the Will County grand jury issued no indictments beyond those it returned for the seven men allegedly involved in Klein’s murder. It did, however, call for the resignation of several high-ranking officials within the Department of Welfare: Warden John L. Whitman and Superintendent of Pardons and Paroles Will Colvin. The grand jury blamed Whitman, a man with decades of experience managing penal institutions, for condoning “loose discipline,” failing to provide work for inmates, and generally disgracing the penitentiary.<sup>276</sup> Though the penitentiary professed to reform its wards, members of the grand jury dismissed these claims. Inmates at Joliet and Stateville simply were not given enough honest labor to occupy their time and heal their souls.<sup>277</sup> While Whitman ran a “Devil’s Workshop” filled with idle hands, Colvin presided over an institution of random guesswork. The grand jury did not uncover damning evidence suggesting that Colvin himself took bribes or that he practiced favoritism during the release process, but jurors seemed shocked by the process of the parole board. In their eyes, Colvin and the Board paroled prisoners according to their own personal discretion. Statistically speaking, the Board did not parole too many inmates, but due to its “haphazard guesses” untethered to scientific processes it released too many persons who were

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<sup>275</sup> Ibid. Kness suspected that the motive for Klein’s murder was robbery, as he was known to carry his bill case within the institution.

<sup>276</sup> Report of May, A.D. 1926 Grand Jury to Hooper.

<sup>277</sup> As historian Rebecca McLennan argues, early twentieth-century American prison administrators and reformers believed that a productive labor system was both essential to the orderly functioning of a prison and crucial to reforming convicted offenders—“prisons could only make a ‘new man’ through habituating him to industry.” The grand jury subscribed to a similar idea, writing in its report that, “Crime in the first place comes from laziness and desire for easy money. If the man who gets into prison because crime seemed easier than honest work is allowed to continue his idleness, then there is no change in his attitude, and his reform is impossible.” See Report of May, A.D. 1926 Grand Jury to Hooper and Rebecca McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008), Chapters 5 and 6, quote from 199.

not ready to return to society.<sup>278</sup> Illinois needed to restore confidence in its release procedures, and the grand jury argued that this would only be possible if the “board and the system that has lost it” were eliminated.<sup>279</sup>

## **Conclusion**

Soon after the grand jury sent its report to Governor Len Small, Will Colvin resigned. The Superintendent of Pardons and Paroles tendered his resignation against the advice of a great many of his political allies, who warned him that quitting under suspicion would be tantamount to an admission of wrongdoing. Some even contacted Governor Small, urging him to ignore the negative press from the *Chicago Tribune* and refuse Colvin’s plea to be relieved from his post. The *Tribune* would pit its editorial page and reporting against the governor “no matter what” and this “present attack on the Pardon Board” was no different than previous charges of corruption, all of which left Small virtually unscathed.<sup>280</sup> State’s Attorney Henry E. Pratt admonished the governor against accepting Colvin’s letter of resignation, asserting that this would “be a recognition of some unfaithfulness, directly or indirectly, on his part towards you” and an admission that “something must be wrong somewhere.”<sup>281</sup> Others mailed their letters to Colvin directly, praising his long record of public service and claiming that the grand jurors’ critique was unfounded. State Senator John Daily dismissed the jurors’ conclusions, writing that, “the only intelligent conclusion any reasonable person could draw from these published reports was that they were most unreasonable, unfounded and the rankest kind of idle gossip.” Daily urged the Superintendent to remain at his post: “A good soldier never retires under fire.”<sup>282</sup> Detectives,

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<sup>278</sup> Report of May, A.D. 1926 Grand Jury to Hooper.

<sup>279</sup> Ibid.

<sup>280</sup> State’s Attorney Henry E. Pratt to Governor Len Small, June 11, 1926, Lennington Small Papers Series X: Box 361, ALPL.

<sup>281</sup> Ibid.

<sup>282</sup> Illinois State Senator John Daily to Will Colvin, June 18, 1926, Lennington Small Papers Series X: Box 361, ALPL.

attorneys, and ordinary citizens also expressed gratitude for Colvin's work, clearly hoping that their compliments could carry the disgraced official through the fallout from the grand jury proceedings. Former Chief of Detectives P.D. O'Brien penned a lengthy letter, crediting the Board's actions under Colvin with his faith in the parole system. And another friend of Colvin's dashed off a short note to say that, "this late uproar was BUNK, pure and simple."<sup>283</sup> Whether short and punchy, or long-winded and flowery, the flood of supportive letters did not prevent Colvin from stepping down. Moreover, he seemed convinced that no one could possibly take his place without experiencing the same criticism and intense scrutiny he had. Colvin wrote to the Governor that the two concurrent grand jury investigations proved "conclusively that no man's integrity is safe, nor can his honesty be safeguarded, who holds the position of supervisor of paroles."<sup>284</sup>

While the grand jury proceedings threatened Will Colvin's reputation and livelihood, the Superintendent of Pardons and Paroles must have sat quietly and stewed, ruminating on the incompetence of the jurors and ungratefulness of the public. How could the grand jury take "thief talk and gossip" as sworn testimony? Why were these men paying close attention to the words of disreputable individuals where there were plenty of respectable people who could tell them that the Board performed its work "fairly and honestly"? And above all else, why was the grand jury, a group of "untrained" men, "probably no one of whom has ever spent a day in his life-time in the study of criminal matters" even called to assess his performance in the first place?<sup>285</sup> A disgruntled Colvin expressed all of these concerns in his letter of resignation, and then, having had the last word, attempted to sink into obscurity. Predictably, the *Tribune* pounced on this

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<sup>283</sup> Frank Hutchison to Will Colvin, June 21, 1926, Lennington Small Papers Series X: Box 361, ALPL.

<sup>284</sup> "Will Colvin Leaves Job: Supervisor of Pardons and Paroles Hands in His Resignation, Pans the Jury," *The DeKalb Daily Chronicle*, July 6, 1926, 1.

<sup>285</sup> All quotations in this section are from *ibid.*

news, mocking Colvin for attempting to portray himself as an abused, yet noble civil servant, and claiming that the Superintendent of Pardons and Paroles would never have given up his position unless he was guilty of *something*. Historians may never uncover the full story of the Board of Pardons and Paroles under Will Colvin, but the grand jury investigation into Warden Klein's death, the scandal surrounding the possible purchase of pardons and paroles, and Colvin's resignation marked a significant shift towards scientization in the Illinois parole system.

Warden Klein's murder and the scandal that followed forced the state government to reevaluate the implementation of the Illinois parole system. For a state still paying lip service to progressive penology, dismantling the parole system did not seem like a valid option. Eliminating parole would mean abandoning the state's professed commitment to helping individuals reenter society smoothly following their prison terms, relinquishing the power to re-arrest and easily re-incarcerate paroled men and women without the hassle of due process, and forgoing the chance to establish a system of surveillance dedicated to the supervision of potential recidivists. But for the parole system to regain a modicum of legitimacy in the eyes of the public, the board needed to be above suspicion.

## CHAPTER THREE

### **Back to the Future: Ernest W. Burgess, Prison Paperwork, and the Origins of the Predictive Model**

When Governor Lennington Small appointed Hinton Graves Clabaugh as head of the parole board following Colvin's resignation, the specter of the paroled man had loomed large in the Illinois public imagination for years. The state's newspapers described predatory offenders with no fear of the penitentiary, who could call upon powerful friends to secure their release after serving mere fractions of their lengthy sentences. These hardened men no doubt returned to their sinister enterprises once paroled. At best, critics alleged, the parole board was too sentimental or too ignorant, "guessing" vicious men out of prison and blind to the dangers they posed. At worst, the parole system was "a catspaw of politics," yet another way for Governor Small and his cronies to enrich themselves and dispense favors to their supporters.<sup>286</sup>

Though Clabaugh assured Illinoisans that "no political influence of any kind shall be permitted to operate for or against a prisoner" during his tenure as head of the parole board, "deep-seated distrust" of the parole system could not be vanquished with a mere change of

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<sup>286</sup> For fear of parolees, see especially Parke Brown, "Here is Roll of Desperados Given Liberty," *Chicago Daily Tribune*, December 15, 1925, 1; "The Crook's Paradise," *Chicago Daily Tribune*, December 16, 1925, 8; Oscar Hewitt, "Malm, Thief and Killer, Example of Small Mercy," *Chicago Daily Tribune*, March 6, 1924, 15; "Justice Fails in This County," *The True Republican*, December 16, 1925, 1-2; For ignorant guesswork view, see Albert J. Harno, "The Division of Pardons and Paroles Prior to Amendment of 1927," in *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 70; "The Parole Farce," *The Lacon Home Journal*, April 28, 1921, 5; "The Parole Law and Crime," *The Marion Semi-Weekly Leader*, May 6, 1921, 4; and Philip Kinsley, "Jurist Protests Christian Love in Criminal Law, Society Injured by Soft Ideals," *Chicago Daily Tribune*, May 1, 1927, 7. Burgess describes the "catspaw of politics" view in "Influence Versus Merit in Parole Administration," in *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 235. Chapter 2 of this dissertation offers a discussion of the parole mill inquiry conducted by an Illinois grand jury. The following newspaper articles—and many others cited in Chapter 2—also discuss politics in parole: "The Crook's Paradise," 8; "Civic Leaders Demand State Parole Cleanup," *Chicago Daily Tribune*, July 6, 1926, 1; Frank Butzow, "No Politics in Paroles if I'm Chief—Clabaugh," *Chicago Daily Tribune*, July 21, 1926, 13; "Criminals Will Serve Full Prison Sentences Under Clabaugh's Rule," *The Geneseo Republic*, September 10, 1926, 7; "Paroles to be Censored," *The DeKalb Daily Chronicle*, May 22, 1926, 1; Philip Kinsley, "Parole Abuses Laid to Politics in Penal Survey," *Chicago Daily Tribune*, January 25, 1928, 1.

leadership.<sup>287</sup> The Chairman needed to re-establish public trust in parole. By commissioning what he saw as a politically neutral committee to explain the purpose of parole laws, study the changes he made to the board, and lay bare the honesty and integrity of his decision to release each parolee, Clabaugh aimed to demonstrate the value of the institution and build confidence in his guidance. He went on to offer his Committee on the Study of the Workings of the Indeterminate-Sentence Law and of Parole in the State of Illinois (hereafter “the committee”) unfettered access to parole board records, board hearings, and prison staffers and administrators. He also allowed committee members Judge Andrew A. Bruce, Dean Albert J. Harno, and Professor Ernest W. Burgess to set the parameters of the study.

The committee quickly determined that Illinois’s system of parole should remain in place. As Bruce, Harno, and research assistant John Landesco interviewed prison administrators, however, they concluded that major reform was needed to eliminate any hint of “influence” from the Board’s decision-making process and place its work “on a scientific and professional basis.”<sup>288</sup> Sociologist Ernest W. Burgess, of the University of Chicago, took up this charge. The professor believed firmly in the essential predictability of human behavior—in applying the kinds of categorizations and statistical forecasting used in the physical sciences to the social sciences. Given time off from his teaching duties at the university, he set out to create a statistical model to predict success or failure on parole.

To do so, Burgess looked to Clabaugh’s board. He observed parole hearings, listening closely to the questions board members posed to prisoners, and pored over notes from interviews conducted with the Chairman. The sociologist’s keen eye assessed Clabaugh’s reforms. Perhaps

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<sup>287</sup> Clabaugh quoted in Burgess, “Influence Versus Merit in Parole Administration,” 235.

<sup>288</sup> Andrew A. Bruce, Ernest W. Burgess, and Albert J. Harno, “Summary of Findings and Recommendations,” in *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 267-268.



more than any other committee member, he needed to determine where the Chairman's changes had fallen short—when the board might make an ill-informed decision, or where political influence could seep into the system. His statistical model might then patch the chinks in the board's armor. Burgess identified institutional shortcomings, exposing flaws in the prison record-keeping process that could potentially blind the parole board to a prisoner's past criminal record, or the severity of his crime. He also noted the level of personal intuition that guided board members' choices, a practice that could not be standardized nor passed down from more seasoned members of the board to their junior colleagues.

Yet despite what Burgess considered glaring shortcomings, the sociologist respected Clabaugh's investigative experience. So did his predictive model. To identify an "objective" set of factors that would expose the potential recidivist to quantitative evaluation and shield the parole board from criticism, he relied on the Chairman's more qualitative methods, interviews with prison staffers and administrators, and an analysis of prison records. The results were contradictory: even as Burgess sought to de-personalize the parole process and distance the board from the sins of the past, his recommendations perpetuated the same subjective assumptions, inherent biases, and intuitive judgments that had governed parole decisions for years. These assumptions and biases were closely related to the professor's own racist association of blackness with criminality and his "impoverished appreciation of racism's effects" on Illinois's African American citizens.<sup>289</sup> Far from escaping the parole system's flaws, then, the

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<sup>289</sup> Simon Balto, *Occupied Territory: Policing Black Chicago from Red Summer to Black Power* (Chapel Hill: The University of North Carolina Press, 2019), 54. Burgess's racist outlook emerged in his advising of black graduate students at the University, including Earl R. Moses, who would later join the faculty at Morgan State College in Baltimore. While working under Burgess's supervision, Moses wrote on juvenile delinquency in Chicago, arguing in a published article that "the problem of delinquency among Negroes in Chicago is not a problem of race" but instead a problem of inequality. When Moses discussed this work with his advisor, Burgess "asked [tellingly] if 'biological difference' contributed to black delinquency." Balto, *Occupied Territory*, 44.

professor lent them a veneer of scientific respectability and predictive power that would persist unchallenged for more than a generation.

This chapter explains how Burgess pioneered a social scientific approach to parole. His methods, I argue, reflected his association with the University of Chicago, blending the case study and statistical research methods that dominated the Sociology Department in the late 1920s. Burgess's approach was also shaped by his own background and prejudices. Burgess, a congenitally quiet and unobtrusive observer who fell into his academic discipline by accident, is usually glossed over in the many histories of the Chicago School of Sociology, and no historian has yet attempted more than a brief biographical sketch of the scholar despite his undeniable influence in his field. But it is important to understand Burgess—both as a man and as a social scientist staking dangerous claims to the objectivity that was once the provenance of the natural sciences. Burgess's personal life, his scholarly development, and his view of the deeply segregated city of Chicago conditioned his thinking and fed into his actuarial prediction model.<sup>290</sup> The factors he chose, the points of information in a prisoner's past that were correlated with parole outcome, emerged from the ecological approach to sociology embraced by the Chicago School and nodded toward the focus on culture and personality that would surface in the social sciences during the Great Depression.<sup>291</sup> Burgess looked for clues to a prisoner's past deviance and potential for future law-breaking in his personal history and behavior, as well as in the environmental influences that acted upon him. All the while, his attempts to identify likely recidivists and scientize the board's decision-making process prioritized efficiency and

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<sup>290</sup> Political scientist Bernard Harcourt defines actuarial methods in criminal justice as follows: "The use of statistical rather than clinical methods on large datasets to determine different levels of criminal offending associated with one or more group traits, in order (1) to predict past, present or future criminal behavior and (2) to administer a criminal justice outcome." Bernard E. Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* (Chicago: University of Chicago Press, 2007), Location 16 (Kindle edition).

<sup>291</sup> Alice O'Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth Century U.S. History* (Princeton: Princeton University Press, 2001), Chapter 2.

emphasized the problem of deviant individual behavior rather than social inequity or institutional inadequacy—the failure of the prison to treat and rehabilitate. For Burgess, the prevention of recidivism ultimately lay in the prison and parole board’s ability to assess the individual prisoner and his past actions.

### **The Lawman and the Committee**

Governor Small appointed Hinton G. Clabaugh—without ever meeting him in person—to head the Board of Pardons and Paroles following Colvin’s departure in July of 1926.<sup>292</sup> The governor likely hoped that Clabaugh’s reputation as a courageous lawman of integrity could restore public faith in the parole system.<sup>293</sup> Clabaugh’s career in criminal justice began in 1910, when he started work at the federal Bureau of Investigation (BOI) in Chicago, and he quickly rose through the ranks.<sup>294</sup> After opening a Cincinnati office for the BOI in 1913, Clabaugh moved east, where the BOI appointed him Assistant Superintendent of the New York office. The start of the Great War found Clabaugh back in Illinois, where he became Chief of the BOI’s Chicago office. As head of the Chicago office of the Bureau of Investigation during World War I, Clabaugh cracked down on political radicalism, battled vice in the city, and caught thousands of army deserters and draft dodgers.<sup>295</sup> The *Tribune* wrote approvingly of his work, especially

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<sup>292</sup> Clabaugh himself stressed this fact and also mentioned that he belonged to a different political party than Small, probably to further indicate that his administration of the parole and pardon board would be vastly different than Colvin’s. See “Clabaugh Rules Politics Out of Parole Board; Criminals are to Stay in Prison, He Says,” *Chicago Daily Tribune*, August 18, 1926, 3.

<sup>293</sup> On Clabaugh’s reputation, see especially “His Work Done, Clabaugh Quits Government Job; Will Go into Business in Chicago; Thanks the City for Help,” *Chicago Daily Tribune*, Nov. 12, 1918, 17.

<sup>294</sup> Clabaugh New Parole Chief; Shift Colvin, *Chicago Daily Tribune*, July 20, 1926, 1. The agency we now know as the Federal Bureau of Investigation (FBI) was founded as the Bureau of Investigation, or BOI, in 1908, and remained under that name until 1935.

<sup>295</sup> During his time at the Bureau, he may have met Ernest W. Burgess while investigating a sensational case involving an affair between “elderly” sociology Professor William I. Thomas and the young wife of a soldier stationed overseas in France. The case, which must have been the talk of the department for years, captured public attention after Clabaugh gathered evidence that Thomas and Mrs. R.M. Granger violated the Mann Act by falsely registering as man and wife at hotel in downtown Chicago. “Professor Is Quizzed; Elderly Sociologist and Young Wife of Soldier Held,” *The Washington Post*, April 13, 1918, 4. The University of Chicago fired Thomas in the wake of this scandal. Federal charges against Thomas were eventually dropped, and the professor went on restore his reputation, later lecturing at the New School and at Harvard.

regarding his actions against labor unions—the BOI used evidence Clabaugh gathered to build a case against the Industrial Workers of the World in 1918.<sup>296</sup> Though he resigned from the Bureau that same year, the lawman continued to fight corruption in Chicago in his work as an investigator for a committee organized by the U.S. Attorney General’s Office. This committee sifted through records in the Chicago District Attorney’s office and eventually uncovered evidence pointing to the office’s involvement in attempts to hinder prosecution in prohibition violation cases.<sup>297</sup> Clabaugh subsequently worked for Samuel Insull, who ran a vast holding company with stake in public utilities and railroads. Insull granted Clabaugh a “temporary leave of absence... to reorganize the Board of Pardons and Paroles of Illinois” in July of 1926.

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<sup>296</sup> The Industrial Workers of the World (IWW), also known as the Wobblies, planned to unite working class people all over the world into one labor union with the syndicalist goal of transferring control over the means of production and distribution to laborers. During WWI, President Wilson ordered an investigation of the organization, culminating in a set of simultaneous raids on the IWW headquarters in Chicago and locals throughout the United States. Local police, federal marshals, and ordinary citizen members of the American Protective League carried out these search and seizures on behalf of the government. A grand jury in Chicago heard the evidence collected in the raids and indicted 101 IWW leaders, charging them with five counts of conspiracy against the war effort. All were convicted of every offense under a verdict handed down by Judge Kenesaw Mountain Landis, and most of the defendants received 5 years in prison. Fifteen major leaders of the Wobblies received 20-year federal prison sentences as well as a combined 2 million dollars in fines. For more on this trial, see Michael Cohen, “‘The Ku Klux Government’: Vigilantism, Lynching, and the Repression of the IWW,” *Journal for the Study of Radicalism* 1, no. 1 (Spring 2007), 31-56 and Patrick Renshaw, “The IWW and the Red Scare of 1917-24,” *Journal of Contemporary History* 3, no. 4 (October 1968), 63-72.

<sup>297</sup> “Net Politicians in Charges of Col. Clinnin; Dozen Reported Accused in U.S. Inquiry,” *Chicago Daily Tribune*, Jul. 13, 1922, 21.

In light of his work at the BOI and as a private investigator, Clabaugh admitted that his view of the parole system was grim: “My first impression was that indeterminate sentences and parole laws were an asset to criminals.”<sup>298</sup> He detailed his problems with the administration of the parole law in the press, assuring reporters in a press conference held soon after his appointment that he would remove politics from parole and institute a merit-based system to assess a prisoner’s suitability for parole based on either “newly discovered evidence” about their conviction or “circumstances occurring subsequent to conviction.”<sup>299</sup> Under his leadership, Clabaugh asserted, the board would make the safety of Illinois citizens its first priority and that “the tough ones,” or those prisoners most dangerous to the public, would serve out their

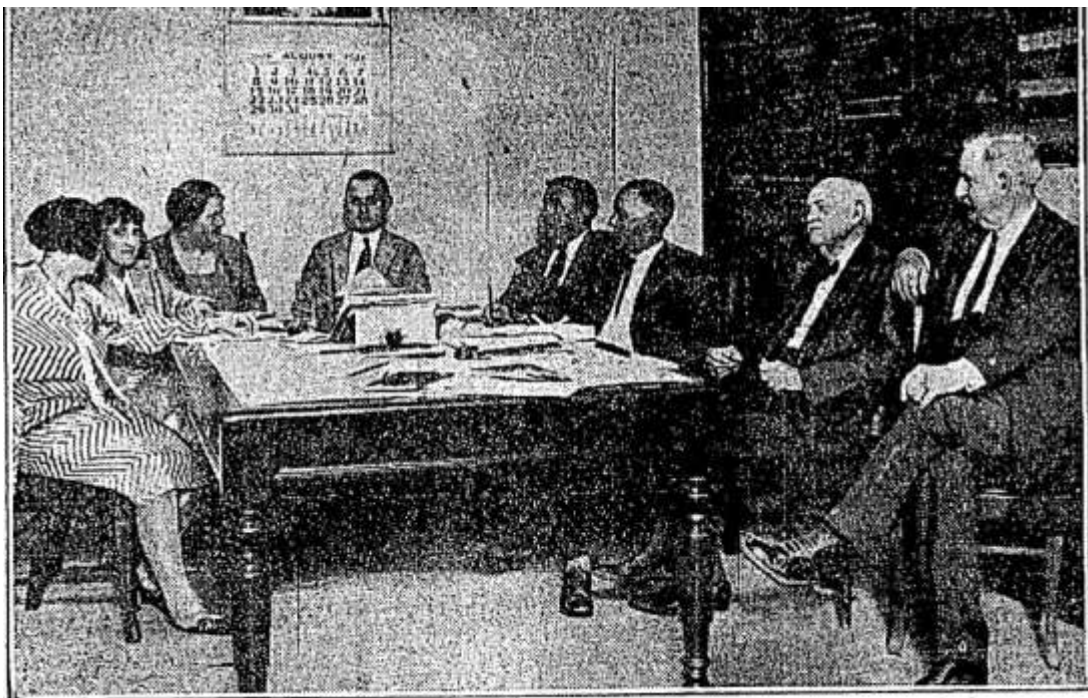


Figure 6 Members of the Parole Board meet at Joliet in 1926. From left to right are Frances Kinsella, Erma Schineer, Nellie Keller (or Keeler), Hinton G. Clabaugh (chairman), W.W. Rhodes, Charles W. McCall, C.P. Hitch, and Capt. P.D. Clarkson. In *The Chicago Tribune*, August 18, 1926.

<sup>298</sup> Hinton G. Clabaugh, “Foreword,” in *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Springfield: Department of Public Welfare, 1928), iv.

<sup>299</sup> Hinton G. Clabaugh, quoted in “Paroling Now is On Merit Basis, Clabaugh Says; No Politics, New Chief Tells His Aids,” *Chicago Daily Tribune*, August 6, 1926, 11.

maximum sentences.<sup>300</sup> He also stated that all meetings of the board would be open to newspaper reporters. The guidelines Clabaugh set out for the board's assessment of cases, however, soon changed. Though he still believed firmly that "the pendulum of justice and mercy [had] swung to the extreme in favor of criminals" in the 1920s, he took steps toward incorporating new insights into the criminal mind and behavior as pioneered by social scientists. Learning to distinguish between "vicious and habitual criminals" and those prisoners capable of becoming "good citizens" would be key to the administration of parole laws. The Committee on the Study of the Workings of the Indeterminate-Sentence Law and of Parole in the State of Illinois could help the newly created Illinois Parole Board do just that.<sup>301</sup>

Clabaugh carefully avoided accusations of harboring any kind of political motive when appointing committee members. He requested that the presidents of the major universities in Illinois—David Kinley of the University of Illinois, Walter Dill Scott of Northwestern University, and Max Mason of the University of Chicago—select faculty to conduct a study of the parole system. Each president chose one faculty member from his university for the committee. In January, 1927, Clabaugh met with Burgess, Dean Harno of the University of Illinois Law School, and Judge Bruce of the Northwestern University Law School.<sup>302</sup> The

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<sup>300</sup> Hinton G. Clabaugh, quoted in "Clabaugh Rules Politics Out of Parole Board; Criminals are to Stay in Prison, He Says," *Chicago Daily Tribune*, August 18, 1926, 3.

<sup>301</sup> The body responsible for paroles under Colvin's administration was the Board of Pardons and Paroles. An act passed in 1927, however, created a Parole Board entirely separate from the Board of Pardons. The Board of Pardons, as before, included the director of the Department of Public Welfare, the Superintendent of Pardons and Paroles (in 1927, Clabaugh), and some or all of the following persons employed by the Department of Public Welfare: the assistant director of the Department of Public Welfare, the alienist, the criminologist, the fiscal supervisor, the superintendent of charities, and the superintendent of prisons. The new Board of Paroles would be composed of the superintendent of pardons and paroles and 9 other persons appointed by the governor. See Andrew A. Bruce, E.W. Burgess, and Albert J. Harno, "The Probation and Parole System," in *The Illinois Crime Survey*, ed. the Chicago Crime Commission (Chicago: Illinois Association for Criminal Justice, 1929), 427-455. Following the passage of the 1927 act, the following persons sat as the Board of Paroles: Frances Kinsella; Erma Schineer; Nellie Keller or Keeler, former secretary of the State Board of Pardons and Paroles; Hinton G. Clabaugh; W.W. Rhodes; Charles W. McCall; C.P. Hitch; and Captain P.D. Clarkson, a former Joliet prison guard.

<sup>302</sup> As historian Simon Balto articulates, it "was men like these—well-educated, socially elite, and varying degrees of racist" who drove criminal justice reform in Prohibition-era Chicago. Balto also preserves this telling quote from

Chairman of the Board of Paroles granted this committee of three full access to all records of the parole board and meetings of the board itself, stating that the study would not be hindered in any way. A sweeping study of this kind, however, promised to be a significant commitment for these three academics, presumably already quite busy with research and teaching. As such, the universities released Burgess and another unspecified member of the committee from their instructional obligations, and Clabaugh approved the hiring of two assistants to support the committee's work.<sup>303</sup>

Bruce, Harno, and Burgess introduced two research queries at the beginning of the study, and busied themselves with answering these questions from 1927 to 1928, when they published their study. These questions were:

1. Should the indeterminate sentence and the parole system be abandoned or continued?
2. If abandoned, what substitute should be found for it; if continued, what changes, if any, should be made?<sup>304</sup>

An academic study, however, can never escape the onslaught of sub-questions, which branch out continually from its original research questions. The Bruce-Burgess-Harno committee developed several lines of inquiry to satisfactorily answer its two central questions: Bruce researched the history and evolution of indeterminate sentencing and parole in Illinois; Harno parsed the present workings of the parole board and its relationship to the court; Landesco focused on parole as a way to rehabilitate offenders; and Burgess conducted a statistical study to determine the factors

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Bruce, who offered up a racist and paternalistic assessment of the Great Migration and the white man's duty to the southern migrant: "Thousands of Negroes have come to us from the rural centers of the South and have given to us a rapidly increasing population, whose natural home is in the fields and not in the streets and congested quarters of the great city, and who lack the guardianship and advice of their white masters and friends." See Balto, *Occupied Territory*, 54.

<sup>303</sup> These assistants were field worker John Landesco, a man with expertise in vocational education and a student of criminology at the University of Chicago, and Clark Tibbitts, employed as a research assistant. Andrew A. Bruce, Ernest W. Burgess, and Albert J. Harno, *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Springfield: Department of Public Welfare, 1928), ix.

<sup>304</sup> Ibid.

that might indicate whether a given prisoner would make good on parole or become a recidivist.<sup>305</sup> Many of the results of the committee's research would be unsurprising to a reader of this dissertation. Harno concluded that the general public knew virtually nothing about the actual operation of the parole system, and that widespread confusion about what the criminal justice system intended for parole laws to accomplish contributed to a general hostility towards the indeterminate sentence.<sup>306</sup> Moreover, the public believed that the parole system worked in favor of prisoners through the curtailment of actual time served. The committee instead found that those under indeterminate sentences were held for longer periods of time than those held under determinate sentences. While the committee as a whole concluded that Illinois should continue the indeterminate sentence and the parole system, Burgess, Harno, and Bruce all agreed that the parole board could not work effectively without public trust.<sup>307</sup>

The new, expanded board also could not work effectively without adequate funding. In his first year on the job, Clabaugh convinced the legislature to increase the appropriation for the Division of Pardons and Paroles from \$349,000 to \$1,466,200 for the biennium, enabling the creation of a nine-member board independent from the Department of Public Welfare.<sup>308</sup> He inherited a sizable backlog of cases eligible for parole from his scandal-mired predecessor, Will Colvin, admitting even a few months after he took office that "we have got a bad situation there [in the state's prisons]." In last months of Colvin's administration, paroles slowed to a trickle. But with the new, nine-member board installed and the committee's study underway, Clabaugh

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<sup>305</sup> Ibid, x.

<sup>306</sup> The Committee understood that the aims of the parole system were the following: (1) to protect the public by determining when an offender was ready to be released into society and supervising the release process and the continuing rehabilitation of that offender, and (2) to expedite the return of the paroled man or woman to the penitentiary should he or she commit another crime shortly after release. Ibid, 254.

<sup>307</sup> Ibid, 255. The Committee found, specifically, that Illinois citizens generally distrusted the parole board because they believed it was susceptible to political influence.

<sup>308</sup> Albert J. Harno, "Pardons and Paroles Prior to 1927," in Bruce et al., *Workings*, 71. Previously, the parole board sat at each institution for only 2-3 days each month.



hoped to “get the parole started... get more men on parole, and improve this congestion” within Illinois institutions.<sup>309</sup> To expedite the work, the new Chairman divided this nine-member Board into three subcommittees of three board members, one for each of the state’s major correctional facilities. These three subcommittees met at their assigned institutions three days out of the week, reviewing jacket files, interviewing prisoners, and making reports for the entire Board to first review and then rule on as a whole once per month. Clabaugh was quick to express pride in the changes he made to the board in his first year of service and solicited public recognition for his achievements. By the end of his first year as Chairman, he wrote to social reformer Lawrence Veiller, then Secretary of the Committee on Criminal Courts in New York City, assuring Veiller that the parole system was “working splendidly.” Characterizing the board prior to the 1927 legislative appropriation as a “paper organization,” he boasted that “Illinois now has the best system in the country” and that the parole board was an aid to law enforcement rather than a force undermining the court system.<sup>310</sup>

Still, Clabaugh continued to guard the board against ongoing charges of corruption and incompetency. All the structural changes he made and legislative appropriations he solicited could not convince the citizens of Illinois that the parole board operated with reason and integrity. He needed to legitimate parole in the eyes of the public. Clabaugh addressed this challenge by mounting a visible defense of the parole system, writing in an open letter to Governor Small that “under attack, an individual is entitled to defense; precisely so with administrative bodies.” In this particular case, where the critique of parole was so “frequently

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<sup>309</sup> Hinton Graves Clabaugh, “Statement in re Division of Pardons and Paroles,” interview by Albert J. Harno, October 28, 1927, 54, in Ernest Watson Burgess Papers, Box 6, Folder 4, Special Collections Research Center, University of Chicago Library (hereafter SCRC-UCL).

<sup>310</sup> Ibid., 53, 73. Also see Hinton G. Clabaugh to the Honorable Lawrence Veiller, December 3, 1927, Ernest Watson Burgess Papers, Box 6, Folder 4, SCRC-UCL.

unintelligent and unjust,” the proper defense would lie in “an impartial, intelligent, and constructive consideration of the indeterminate sentence laws and of the parole administration” conducted by representatives of Illinois’s leading universities.<sup>311</sup>

### **Burgess Observes: Common Sense, Integrity, and Reform in Clabaugh’s Board**

Despite Clabaugh’s reforms, his decision-making process revealed that the new Chairman considered many of the same factors as Colvin when ruling in any given case. The former investigator relied heavily on common sense judgement, prioritizing his gut feelings above current research on the criminal mind, the causes of crime, and the characteristics of the recidivist. The Chairman’s conviction that rational parole decisions could be made by a combination of this commonsense assessment and deep investigation into a prisoner’s past remains apparent throughout his interview with Dean Albert J. Harno. While Harno and his committee members praised the structural changes Clabaugh made to the board and the parole system, they continued to highlight similarities between Clabaugh’s board and the previous parole administration. Aside from the addition of long-winded and often paternalistic explanations of his decision-making process, the questions Clabaugh asked of prospective parolees were similar to those had Colvin asked, and Clabaugh relied on the same limited selection of jacket materials. In each board hearing, Clabaugh, like Colvin, asked questions about the nature of the crime committed, whether the prisoner was innocent or guilty of the offense, if this was his or her first offense, and if the prisoner planned to stay out of trouble if paroled. The materials gathered by the board and the nature of the lines of questioning pursued during its hearings illustrated the extent to which releasing men on parole was still a game of chance. In his

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<sup>311</sup> Hinton G. Clabaugh to Governor Lennington Small, March 4, 1927, in “Special Report and Recommendations, Parole System of Illinois,” Ernest Watson Burgess Papers, Box 17, Folder 2, SCRC-UCL. This “constructive consideration” was approved by Chicago’s leading professional and law enforcement organizations including the conservative Chicago Crime Commission, the Illinois State Bar Association, the Bankers Association, the Jewelers Association, and others.

conversation with Harno, the Chairman stressed that his extensive “contact with human nature,” ability to “secure all the facts,” and application of “plain common sense” informed his decision in prisoners’ cases that came before the board. Clabaugh also told Harno, “I do not believe there is any such thing as expertness in the particular kind of work I am referring to.”<sup>312</sup>

Still, Clabaugh emphasized the importance of making a study of each individual case by way of records accumulated in the institutional jacket files, a practice that had proved impossible for Colvin’s smaller board.<sup>313</sup> When asked about the most important factors the board considered when deciding whether to grant or deny a parole, Clabaugh asserted that decisions were largely based on jacket materials containing information about a prisoner’s past history, his “attitude toward discipline and toward society, as evidenced by his institutional record,” and the nature of his crime. Each parole board member claimed that they read each prospective parolee’s jacket in its entirety before a hearing. Members paired their assessment of the written record with “[their] own conclusion” or judgment of the prisoner after speaking with them “three or four times.”<sup>314</sup>

The 1927 separation of the Board of Pardons from the Illinois Parole Board and the concurrent increase in staff allowed Clabaugh and the other members of the parole board more time to familiarize themselves with jacket materials, which they consulted for details about

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<sup>312</sup> Clabaugh, interview, 3-4. Clabaugh also fancied that his experience in private business, particularly in sales, combined with his time in law enforcement made him uniquely fitted for his position as head of the parole Board. Clabaugh worked as a grocery wholesaler before entering public service.

<sup>313</sup> “Jacket materials” refers to the selection of documents kept in a given prisoner’s “jacket,” or case file used by the parole Board when the prisoner appeared before the Board. According to the Committee’s notes and to the Illinois State Archives website ([www.archon.ilsos.net](http://www.archon.ilsos.net)), the following materials are generally found in these institutional jackets: mug shots; correspondence with parole officers, police, and corrections officials concerning the crime committed and their recommendations for or against parole; any notifications of parole violations; letters from the trial judge, state’s attorney, and witnesses; verbatim reports of parole hearings; parole progress reports; copies of pleas, judgments, and grand jury findings; and various orders and recommendations for final discharge. Later, jackets would include prediction reports submitted by sociologist-actuaries. Prior to Clabaugh’s nine-member board, Will Colvin and his three assistants were the only members of the Illinois Parole Board. Clabaugh later commented that when he took over for Colvin, he “quickly saw that it was impossible for any one person, with three assistants, to attempt to review the record and give an adequate hearing in cases coming to the penitentiary from all... 102 counties.” Clabaugh, interview, 6.

<sup>314</sup> Clabaugh, as quoted in Bruce et al., *Workings*, 76.

prisoners' criminal records and social histories. Clabaugh insisted that the organization of the board into subcommittees split the work up enough so that members could read all of the materials in the jacket files and conduct in-depth interviews with each prisoner from their assigned institution before making their report to the full parole board.<sup>315</sup> Materials available to board members for review also increased under Clabaugh's administration. By 1927, each institutional jacket reviewed by the board included a mittimus containing the names and addresses of complaining witnesses and jurors involved in court proceedings, plus statements from state's attorneys and judges. Clabaugh told Harno that the board often contacted jurors and witnesses to fill out the details of the case and that he attempted to work in "cooperation with the prosecutors and the courts" to obtain more detailed statements. Before ruling in each case, Clabaugh's board supposedly reviewed all of these materials. They also considered the details of the prisoner's crime to "determine what would be a proper punishment," justice for the prisoner and society. However, Burgess later noted that reading the jackets would have been a lengthy process for board members, as materials were not arranged by date or in any other logical way. It often took "a member of the Committee a day, sometimes two and even three days," to reorder, read, and assess the papers in one jacket.<sup>316</sup> The task of arranging and reading through all of the papers in all of the jackets in advance of each parole hearing would have been almost impossibly taxing even for Clabaugh's larger parole board.

At the same time, a perusal of the committee's notes reveals that some jackets held little information regarding the prisoner's offense and previous history. One Pontiac jacket for a boy sentenced for larceny in 1923 held only a single sheet of paper containing a statement from the reformatory's superintendent. The board members' decisions in every case were only as good as

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<sup>315</sup> Clabaugh, interview, 11-12.

<sup>316</sup> Bruce et al., *Workings*, 68.

their instincts and the qualitative information given them. The disparity between near empty jackets and jackets stuffed full of life histories, police reports, attorney statements, petitions, and other materials probably meant that some prisoners received fuller consideration than others. Prisoners with more extensive jackets were most likely literate, native-born white men with strong ties to their neighborhoods and to wealthy, influential, and respected men who made an effort to vouch for them. They had mothers, fathers, wives, and employers who wrote letters to the board and circulated petitions for release among community residents. Before the widespread use of fingerprint identification, better connections between police departments, and greater reliance on psychiatric diagnoses, prisons and the parole board-based assessment of a given offender's identity and character upon his or her acquaintances and friends. Relying on this information, contained in institutional jackets, meant that prisoners with thin case files either made a very good impression with the board and prison officials or remained inside.

Fortunately for prisoners with thin jacket files, Clabaugh's larger board and subcommittee system also allowed for lengthier interviews with prospective parolees. This tactic was in keeping with Clabaugh's view of the significance of a prisoner's habits and character traits to his parole outcome. The Chairman relied heavily on these interviews before ruling in each case—prioritizing his own judgment over other records and assessments. Parole hearings began with the imprisoned man giving a chronological history of his life, encompassing his school years, family life, employment record, and the details of his criminal history. Clabaugh related that he and other board members would “ask him [the prisoner] all sorts of questions; questions we would not be permitted to ask in court” in order to “search the fellow thoroughly and find out all about him.”<sup>317</sup> The Chairman was sure that his background as a criminal

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<sup>317</sup> Clabaugh, interview, 39.

investigator for the Bureau of Identification (BOI) prepared him for speaking with each prisoner who came before the Board. When questioning draft dodgers and wartime dissidents for the BOI during WWI, he spoke with thousands of people with varied social backgrounds. These men and women had one thing in common: “most of [them] were in trouble.” After enough time spent talking with people in trouble, Clabaugh contended, “you get accustomed to sizing them up when talking to them.”<sup>318</sup>

Due to the Chairman’s outsize influence over the parole board, prospective parolees with lengthy criminal records and social connections board members considered disreputable needed to impress Clabaugh. Clabaugh certainly fancied himself an expert in the intricacies of the criminal mind—as evidenced by his prolonged Board hearing monologues on the character of certain inmates—and had a taste for investigation. He occasionally indulged himself, taking a special interest in a few cases recorded for the committee’s files and engaging in background research on these prisoners and their crimes. The Chairman even spoke to complaining witnesses himself, attempting to convince them to withdraw their objections to a parole when he believed a given prisoner deserved a second chance. In one case, Burgess saw Clabaugh place his faith in a desperate young man who aroused animosity in the Chicago business community, eliciting letters of protest from the successful merchants he had swindled. Clabaugh told Henry Yepsen, an egg-broker who attempted to pass bad checks and attached false bills of lading to his egg shipments, that he “thought [him] a man” when Yepsen admitted during a parole hearing that he had blamed an innocent employee for his crimes at trial. Clabaugh rewarded Yepsen for his honesty and went to great lengths to give the broker a second chance in his business, even calling a meeting with representatives from the Chicago Mercantile Exchange and the Bankers’

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<sup>318</sup> Ibid., 4.

Association to his office to explain that Yepsen had admitted wrongdoing, made a good record in prison, and was “too intelligent a man” to have his talents wasted. Evidently, these representatives concurred and withdrew their objections to Yepsen’s parole. In a special hearing before the board, however, Clabaugh said that he did not believe that Yepsen was “a criminal at heart” and that he would have granted him a parole regardless of protests from the business community.<sup>319</sup>

While very few transcripts of parole board hearings are available to archival researchers today, the committee had access to all of them. It seems that Burgess included this particular transcript in his research notes because it was so well documented. Burgess wrote that the case interested him because it showed how much influence the parole hearing had over determining the punishment for the offense, and how the Chairman’s personal assessment of probability of reform could sway the board’s decision.<sup>320</sup> A perusal of the Joliet Register of Prisoners and of the materials contained in the average prisoner’s mittimus file—similar to the institutional jacket—further highlights the unique features of Yepsen’s case. Though born to German immigrant parents, Yepsen was a white-collar worker on the outside, whereas most prison inmates worked blue-collar jobs before their arrests.<sup>321</sup> Yepsen’s class status certainly increased his chances for release. Clabaugh summoned Yepsen’s business associates for a discussion of his case, when most prospective parolees found that their family members, friends, and colleagues were unable to afford the travel cost of attending a parole Board hearing. Clabaugh even

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<sup>319</sup> Interview with Henry Yepsen, conducted by Hinton G. Clabaugh, November 1926, Ernest Watson Burgess Papers, Box 34 Folder 8, SCRC-UCL.

<sup>320</sup> Burgess written comments on *ibid.*

<sup>321</sup> See Joliet Registers of Prisoners, Illinois State Archives.

remarked that Yepsen appeared “clean cut” during his parole hearing, and that he made a “good impression.”<sup>322</sup>

Clabaugh’s board members, too, certainly placed more faith in “gut feelings” over the course of the decision-making process than they wished to admit. The Board’s paper trail sometimes revealed little qualitative reasoning behind its decisions. One written report composed



Figure 7 Sam Washington, convicted of killing his common law wife in 1925, sits at a table with Clabaugh and members of the Parole and Pardon Board. Taken by a photographer for Chicago Daily News, 1927.

by the Board to explain why it had denied parole to a young man in Pontiac merely read: “we feel that this boy should have a substantial lesson to the end that he will learn that he cannot do the things that he has been doing so flagrantly.”<sup>323</sup> The written statement here could easily be applied to nearly any reformatory case—it gives no indication of the board’s assessment of the individual under

consideration or why they thought he should stay at Pontiac. Was it the case that this boy was making progress in his schooling and learning a trade inside that would give him a better chance on parole? Or perhaps he failed to follow reformatory rules and obey orders from his keepers? Maybe details of this particular prisoner’s past were still murky and the board felt he might be too great a risk if allowed to return to his community. Whatever the actual situation, the brevity of this notation and others the committee saw over the course of their research proved worrisome to the academics involved.

<sup>322</sup> Interview with Henry Yepsen.

<sup>323</sup> Quotation from Bruce et al., *Workings*, 80.



In addition to the interview and the trial materials held in each prisoner's institutional jacket, the parole board also officially considered character references from "business and professional men," an institutional conduct report composed by the warden, statements from arresting officers, and an evaluation from the institution's mental health officer (psychiatrist) when available. The warden's conduct report included his recommendation for or against parole in the case along with the imprisoned man's disciplinary record. It may have also contained information on the man's prison work record, any educational progress made while incarcerated, and a report of the prisoner's attendance at religious services offered in the institution.<sup>324</sup>

Clabaugh's comments regarding wardens' statements suggest that the opinions of prison officials and guards greatly influenced the board's decision in any given case. These officials and deputies, the Chairman contended, knew the prisoners better than any other representative of the state.<sup>325</sup> By contrast, Clabaugh viewed statements from prison psychiatrists and mental health officers with suspicion. He complained that psychiatric assessments submitted to the parole board while Will Colvin held office were next to useless: "I do not pay much attention to a report that definitely classifies an inmate of having the mental ability of a child of nine years and six months." Psychiatrists wasted too much time placing prisoners in categories and attempting to theoretically determine developmental stages instead of carefully studying the individual prisoner himself and coming to conclusions the parole board would find useful, Clabaugh told Harno. Indeed, the former federal agent doubted the legitimacy of the psychiatric profession as a whole. He summed up his views with an anecdote: "The best definition of the usefulness of a psychiatrist I ever heard was given by this lady on the staff of the Johns Hopkins Institute in

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<sup>324</sup> Albert J. Harno, "How the New Parole Board Works," in Bruce et al., *Workings*, 71.

<sup>325</sup> Clabaugh, interview, 46.

which she said... ‘Any fool can tell a nut.’”<sup>326</sup> According to Clabaugh, the authority of institutional psychiatrists lay in the sheer volume of their experience with prisoners, though he allowed that the mental classifications they devised and applied could sometimes indicate whether or not a particular prisoner would pose a risk to society if released.

While committee researchers certainly believed that the sort of “common sense judgment” Clabaugh praised in prison psychiatrists and exercised in parole interviews was valuable, they worried about the influences that might sway this kind of decision-making.<sup>327</sup> Even if paroles were not directly bought and sold, the kind of legal representation and character recommendations money could buy certainly might push board members towards leniency. Burgess noted that sons of prominent families often secured state senators and representatives to come to board hearings on their behalf. These families also hired prominent and wily attorneys who collected materials favorable to parole for the institutional jacket. Powerful labor leaders also looked out for incarcerated union men. Union officials exerted considerable political and social pull, which they used to raise money for lawyers, secure employment for parolees, and gather hundreds of signatures in support of their imprisoned comrades. These signed petitions could be added to jackets to illustrate community support for the union man’s parole.<sup>328</sup> However, influence over Board decisions did not always work in favor of the prospective parolee. As evidenced by public outcry against parole in 1926 and earlier, the “tremendous force of public sentiment” could lead to longer sentences for even the most meritorious or well-

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<sup>326</sup> Ibid., 65.

<sup>327</sup> Harno, “How the New Parole Board Works,” 81.

<sup>328</sup> Examples of union support for imprisoned members can also be seen in earlier cases. In one 1905 case, a paroled man from Joliet wrote to Warden E.J. Murphy to notify him that he signed “a petition [circulated by the Teamsters Union] for the release of another convict, now in your care.” The writer, William Gillett, hoped that he did not violate the conditions of his parole in doing so. William C. Gillett to Warden E.J. Murphy, November 1905, in Penitentiary Mittimus Files, 1857-1916, Illinois State Archives.

connected prisoner.<sup>329</sup> Indeed, during the period from 1921-1926 when Burgess estimated that opposition to the parole law was most vigorous, the board released very few prisoners—the proportion of men paroled to the prison population as a whole was the lowest it had ever been.<sup>330</sup>

After observing multiple parole hearings and reading countless case files, Burgess concluded that Clabaugh's structural changes—which allowed greater attention to cases and lengthier interviews—could not on their own lead to better parole decisions.<sup>331</sup> Nor could “honesty and good intentions on the part of the members” justify board rulings. To legitimate the revamped parole board and justify releasing prisoners, board members' decisions needed to be separated from any kind of monetary, political, and sentimental influence—whether favorable or unfavorable to a given case.

#### **Ernest W. Burgess: “The First Young Sociologist”<sup>332</sup>**

When Burgess accepted the position on Clabaugh's committee to investigate the workings of the indeterminate sentence and parole law in Illinois, he approached the project with an eclectic methodological toolkit shaped both by his own way of being in the world and by the intellectual luminaries that surrounded him at the University of Chicago. Burgess was born in Canada in 1886, but immigrated to a small town in Michigan with his parents and sister at a young age. Perhaps it was this move to Whitehall, with its “conventional middle-class, somewhat puritanic, small town setting” that fostered Burgess's later fascination with deviance—the ability to be privy to the sorts of goings on behind closed doors that a small-town busybody might find

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<sup>329</sup> Ernest Watson Burgess, “Influence Versus Merit in Parole Administration,” in Bruce et al., *Workings*, 239.

<sup>330</sup> Ibid., 243. The proportion of paroles to prison population was highest from 1917 to 1921, possibly due to the prevalence of industrial paroles during the Great War.

<sup>331</sup> Albert J. Harno, “How the New Parole Board Works,” in *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 79-81.

<sup>332</sup> Everett C. Hughes, “The First Young Sociologist,” in *Ernest Watson Burgess, 1886-1966: Four Talks Given at a Memorial Service* (Chicago: The University of Chicago Press, 1967), 1, Donald J. Bogue Papers, Box 1, Folder 14, SCRC-UCL

worthy of gossip.<sup>333</sup> Certainly, his rural background would later give him a “strong sense of being... [an outsider] to the [urban] phenomena” he studied at the University of Chicago.<sup>334</sup> As a child, Burgess’s academic inclinations developed early. Teachers recognized his potential from his grade school years and called him “the little professor,” a nickname he apparently embraced.<sup>335</sup> He would later tell a colleague that he could not remember considering any career path outside of the professoriate.<sup>336</sup> Burgess’s family also supported his scholarly ambitions and sent Ernest and his younger sister to Oklahoma’s Kingfisher College after high school.

Though Ernest’s quiet, dignified demeanor and religious upbringing probably prevented boasting, he took pride in his academic achievements while at Kingfisher. This was evidenced by a well-worn recommendation letter written on his behalf by a professor of psychology and history, which Burgess kept safe among his personal papers for decades.<sup>337</sup> The young man intended to pursue graduate studies in English at the University of Michigan after graduating from Kingfisher, but, as he would later tell a student, this decision was derailed when he stopped in Chicago on his way to Ann Arbor. There, a Kingfisher mentor arranged a meeting with Professor Albion Small, who convinced Burgess to stay in the city and study sociology. Burgess defended his dissertation in 1913, while teaching at the University of Toledo. Following short

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<sup>333</sup> Leonard S. Cottrell, Jr., “Introduction: The Family,” in *Ernest W. Burgess on Community, Family, and Delinquency*, eds. Leonard S. Cottrell, Jr., Albert Hunter, and James F. Short, Jr. (Chicago: The University of Chicago Press, 1973), 77.

<sup>334</sup> Henry Yu, *Thinking Orientals: Migration, Contact, and Exoticism in Modern America* (New York: Oxford University Press, 2002), 33. Yu writes: “The Chicago sociologists saw themselves as strangers to the urban community and thus could describe and explain it in a way only outsiders could.” How these sociologists conceptualized the journey from their small hometowns to the “confusion and sophistication of the big city” would inform their academic work on urban and rural communities.

<sup>335</sup> Mike Forrest Keen, *Stalking the Sociological Imagination: J. Edgar Hoover’s FBI Surveillance of American Sociology* (Westport, CT: Greenwood Press, 1999), 33.

<sup>336</sup> Donald J. Bogue, “Introduction,” in *The Basic Writings of Ernest W. Burgess*, ed. Donald J. Bogue (Chicago: Community and Family Study Center, 1974), xii.

<sup>337</sup> J.W. Teroggs to Whom It May Concern, June 1, 1908, reprinted in Bogue, “Introduction,” xiii.

stints as assistant professor at the University of Kansas and Ohio State University, he returned to the University of Chicago, where he would remain until he retired in 1952.<sup>338</sup>

He accepted his faculty position at the University of Chicago in 1916, just in time to join the scions of the discipline as they worked out sociology's methodologies, practical applications, and relationship to the other social sciences. The fresh-faced and kindly Burgess found a mentor in colleague Robert Park, with whom he shared an office in the East Tower of Harper Library.<sup>339</sup> Park and Burgess's work, as well as the work of their students, adheres to the theoretical and methodological frameworks identified as hallmarks of the Chicago school of sociology, a "blending of firsthand inquiry with general ideas" and the "integration of research and theory as part of an organized program."<sup>340</sup>

The literature on the Chicago School of Sociology tends to emphasize colorful faculty members like the outspoken former journalist Park and students like Nels Anderson, whose innovations in participant observation for his study of the city's homeless population became a legendary example of the school's fieldwork methodology. Burgess, who was soft-spoken and unassuming, is most often remembered for his collaborations with Park and for his concentric zone model, a theory of city expansion.<sup>341</sup> While he was famous in his day, in the way that academics are known to their colleagues and to graduate students, Burgess followed a linear path

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<sup>338</sup> Bulmer, *The Chicago School*, 73.

<sup>339</sup> Martin Bulmer, *The Chicago School of Sociology: Institutionalization, Diversity, and the Rise of Sociological Research* (Chicago: The University of Chicago Press, 1984), 94.

<sup>340</sup> Bulmer, *The Chicago School*, 3.

<sup>341</sup> Burgess argued that as demand for space in the city's central business district rose, the city would expand "radially" in a pattern of five concentric zones. Surrounding the Loop, or downtown business area, is an area in transition, simultaneously a residential district and a zone of "business and light manufacture." Moving outward, you will encounter the "zone of workingmen's homes," where those who have escaped the deteriorating area of transition reside so that they can easily commute to their factory jobs. The "residential zone" encompasses the first three areas. According to Burgess, this zone is characterized by "high class apartment buildings or of exclusive 'restrictive' districts of single-family dwellings." Still farther from the Loop, Burgess identifies the "commuters' zone," or suburban neighborhoods about 30-60 minutes by train from the city center. Ernest W. Burgess, "The Growth of the City," in *Ernest W. Burgess on Community, Family, and Delinquency* eds. Leonard S. Cottrell, Jr., Albert Hunter, and James F. Short, Jr. (Chicago: The University of Chicago Press, 1973), 26.

to academia with none of the biographically interesting learning experiences Park enjoyed on his way to the professoriate.<sup>342</sup> He never married and enjoyed a deeply private, quiet existence even in his young adulthood. Despite a milquetoast personal life, or maybe because of it, Burgess established himself as a valuable instructor and colleague in the department during the heyday of the Chicago school of sociology. His students especially appreciated his “knack of [sic] setting forth the most complex concepts and ideas in simple language in intelligible form.” For Burgess, the study of sociology “mean[t] preparation to become a scientist.”<sup>343</sup> He believed students could learn more by practicing sociological methods, designing their own projects, and conducting their own fieldwork than they could by listening to his lectures. As a gesture of good faith in the undergraduates and graduate students he trained, he often invited his pupils to participate in his research endeavors.

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<sup>342</sup> Park spent a decade as a newspaper reporter before attending graduate school in philosophy at Harvard and at Heidelberg in Germany. Park completed his doctorate in Europe before working with the American Congo Reform Association (ACRA) as a secretary and publicity agent, writing articles about the horrific violence and environmental destruction perpetrated by Belgian colonial officials in Africa. While writing for ACRA in 1904, Park met Booker T. Washington. Sociologist Zine Magubane recounts that at this first meeting Park shared a theory with Washington: that “the evils of Leopold’s regime in the Congo were... one of the more or less inevitable results of the civilizing process.” A year later, Park went to work for Washington at Tuskegee Institute, where he would remain for nine years. When he began teaching at the University of Chicago in 1914, he worked part-time as an instructor. He taught one course there while serving as president of the Chicago Urban League, an organization created to help rural African American migrants adjust to urban life. Park was appointed to the University’s faculty in 1919. Zine Magubane, “Science, Reform, and the ‘Science of Reform’: Booker T. Washington, Robert Park, and the Making of a ‘Science of Society,’” *Current Sociology* 62, no. 4 (July 2014), 569. Also see Davarian L. Baldwin, “Black Belts and Ivory Towers: The Place of Race in U.S. Social Thought, 1892-1948,” *Critical Sociology* 30, no. 2 (July 2004), 410.

<sup>343</sup> Philip M. Hauser, “Ernest Watson Burgess—The Human Being,” in *Ernest Watson Burgess, 1886-1966: Four Talks Given at a Memorial Service* (Chicago: The University of Chicago Press, 1967), 25-26, Donald J. Bogue Papers, Box 1, Folder 14, SCRC-UCL.

Young Burgess also worked closely with his colleagues, co-teaching courses in the department and joining forces with more experienced professors to conduct research in Chicago. He sought the advice of fellow faculty members from the beginning of his career at the University of Chicago. When assigned to teach the introductory course in sociology for undergraduates, Burgess contacted Professor Bedford to ask for his course outline. Bedford, then in the midst of teaching the introductory class, refused. Burgess returned to his office feeling chastened and related the story to Park, who offered to help. The two worked together to prepare lecture outlines and readings.<sup>344</sup> The course became the basis for their first book, *Introduction to the Science of Sociology*, a textbook published in 1921. Students would come to know this introductory text as the “green bible” because of its green cover and significance in setting out the theoretical state of the field.<sup>345</sup> This collaboration along with the two scholars’ 1925 work, *The City*, would shape Burgess’s understanding of race and inequality, informing his work for years to come.



Figure 8 Undated photograph of Ernest W. Burgess in his office at the University of Chicago. Photograph by Paul A. Wagner.

In the green bible, Park and Burgess laid out the “interaction cycles” paradigm, a theory that explained the development of race and ethnic relations in the modern world. Often called the “race relations cycle,” the theory laid out a supposedly universal series of progressive steps ranging from “competition to conflict to

<sup>344</sup> Hughes, “Young Sociologist,” 3.

<sup>345</sup> Despite its length (1,040 pages), the book sold over 30,000 copies before its printing plates were repurposed, probably for wartime use, in 1943. Alan Sica, “Book as Totem: The ‘Green Bible’ One More Time,” *Contemporary Sociology* 41, no. 5 (September 2012), 557.

accommodation and finally, assimilation” that characterized contact between social groups.<sup>346</sup> Conflicts like the 1919 riot in Chicago—and even the horrors of violence perpetrated by Belgian King Leopold’s officials in the Congo—were apparently natural and crucial to this process. An inevitable part of the cycle, conflict occurred along the way to a state of social balance. Still, even as he stressed the universality of this cycle, Park realized that the assimilation of persons of color was different than the assimilation of white ethnic groups. To explain the dissimilarities, he advanced a theory of “‘racial characteristics’ that imposed bio-cultural explanations on social conditions and groups.” Both cultural and biological traits determined the rapidity of assimilation, Park explained, thus finding a way to “rationalize race without letting racism undermine social cohesion.”<sup>347</sup> Like his mentor, Booker T. Washington, Park believed that the process of assimilation was slow, and that “social changes in race relations occurred only gradually, usually over centuries.” The work of activists, politicians, and reformers could not change this process.<sup>348</sup>

Park and Burgess applied the ideas they worked out in the green bible to their vision of urban space, laid out in a 1925 edited volume titled *The City*. As cultural critic Andrew Ross argues, the theory of “human ecology” presented in the volume was “infused with assumptions about the pathology of the racial and class compositions of neighborhoods and their populations.”<sup>349</sup> Moreover, rather than using detached, scientific methodologies to observe, record, and interpret social reality, the researchers instead defined the city’s sociocultural and

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<sup>346</sup> Baldwin, “Black Belts and Ivory Towers,” 411.

<sup>347</sup> Ibid, 412.

<sup>348</sup> Aldon Morris, *The Scholar Denied: W.E.B. DuBois and the Birth of Modern Sociology* (Berkeley: University of California Press, 2015), 103, 115. Morris further argues that Park’s view was wrapped up in evolutionary social Darwinism, writing that “Park followed the lead of social Darwinists by uncritically accepting their racial hierarchy paradigm” in which white Europeans and Americans were superior because “they had developed sophisticated civilizations.”

<sup>349</sup> Andrew Ross, quoted in Baldwin, “Black Belts and Ivory Towers,” 414. Roderick D. McKenzie coedited the volume and contributed one essay.



spatial infrastructure themselves and slotted urban changes into a biological framework. Cities, Park insisted, were “product[s] of nature, and particularly of human nature.”<sup>350</sup> Though Park, Burgess, and their coeditor believed they were describing a socio-ecological process that could explain change in the city’s settlement patterns over time, the three sociologists were not so much describing a process as “prescribing” an organization of urban space in order to “codify the city for observation and ‘administration.’”<sup>351</sup> The biological framing of this process turned the operations of private enterprise to “a natural force” that both pushed the city’s boundaries ever outward and divided urban space into “its residential and industrial districts.”<sup>352</sup> As Park put it, neighborhoods inevitably divided people on the basis of “personal tastes and convenience, vocational and economic interests... an organization and distribution of the population which is neither designed or controlled.”<sup>353</sup> Burgess’s theory of concentric zones, laid out first in *Proceedings of the American Sociological Society* and later reprinted in *The City*, physically mapped Park’s “stereotypes, mythologies, and pre-conceived notions” about each neighborhood and “embedded them [into] the physical landscape.”<sup>354</sup> Historian Davarian Baldwin dissects the concentric zones model and its explanatory essay, showing that Burgess condemned the “most visibly racial” groups to slum living and low-level occupations—fates Burgess conceptualized as the result of these persons’ “racial temperament” rather than unequal access to residential

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<sup>350</sup> Robert E. Park, “The City: Suggestions for the Investigation of Human Behavior in the Urban Environment,” in *The City*, eds. Robert E. Park, Ernest W. Burgess, and Roderick D. McKenzie (Chicago: The University of Chicago Press, 1968), 1. *The City* was first published in 1925.

<sup>351</sup> Sudhir Venkatesh, “Chicago’s Pragmatic Planners: American Sociology and the Myth of Community,” *Social Science History* 25, no. 2 (Summer 2001), 277. Venkatesh also points out that the motives behind the research does not mean that the three sociologists considered themselves biased or that they were somehow working to delude city officials or the public.

<sup>352</sup> Baldwin, “Black Belts and Ivory Towers,” 414. Park, “The City,” 5.

<sup>353</sup> Park, “The City,” 5.

<sup>354</sup> Henry Yu, quoted in Baldwin, “Black Belts and Ivory Towers,” 415. Burgess’s definition of the five “concentric zones” first appeared in 1923, in an article titled “The Growth of the City: An Introduction to a Research Project.” B. Robert Owens, “Mapping the City: Innovation and Continuity in the Chicago School of Sociology, 1920-1934,” *The American Sociologist* 43, no. 3 (September 2012), 269.

neighborhoods and well-paying jobs. Most significantly, the sociologist made African Americans “the naturalized standard in measuring disorganization.”<sup>355</sup> Burgess’s collaborations with Park, especially his mapping work, reveal his understanding of race and urban areas, contextualizing the construction of his parole prediction model.

Burgess and Park’s scholarly collaborations—*Introduction to the Science of Sociology* and *The City*—also attracted talented graduate students to the University of Chicago. As those students remember it, Park’s charm, his zeal for his discipline, and his apparently spellbinding lectures—sometimes delivered during long rambles through the streets of Chicago—drew young scholars to the department. Burgess’s quiet kindness and immediate acceptance of students as colleagues helped to keep them there. Together, the two professors taught students to see Chicago as a great sociological laboratory and encouraged them to step out of the confines of the campus to explore the city. Burgess remembered years later that he had made “contact with agencies throughout the city in search of the data they could furnish” to expand the scope of student research.<sup>356</sup> The community ties he cultivated gave faculty and students entrée to stores of social information held by the Chicago Juvenile Court, the city’s Health Department, the Council of Social Agencies, the Urban League, the Association of Commerce, and the various social settlements. Students analyzed this trove of data, mapping data points, reading social histories, and—in the case of graduate students—obeying Park’s command to “go get the seats of your pants dirty in real research.”

As the 1920s came to a close, however, an ageing Park lost some of his influence as the department more fully embraced advanced quantitative methods. To exercise “powers of

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<sup>355</sup> Baldwin, “Black Belts and Ivory Towers,” 415-416.

<sup>356</sup> Ernest W. Burgess, “A Short History of Urban Research at the University of Chicago Before 1946,” in Ernest W. Burgess and Donald J. Bogue, eds., *Contributions to Urban Sociology* (Chicago: University of Chicago Press, 1964).

prediction and control” and claim objective authority, sociologists borrowed techniques from the natural sciences to craft new methodological standards for the profession.<sup>357</sup> While Burgess dipped into quantitative techniques when he mapped data points in his studies of urban areas, he felt unfamiliar with the new direction of his discipline—so much so that he made the trope of the professor as eternal student a reality. As a tenured faculty member, Burgess sat in on at least one of his colleague William F. Ogburn’s courses in statistics in 1927. He was one of the first Chicago faculty members to bridge the gap between proponents of the case study and life history techniques espoused by Park and the champions of the newer statistical methods Ogburn brought to the department.

The sociological work that emerged from the University of Chicago the 1920s, whether produced by Park’s case-studiers or Ogburn’s statisticians, espoused a value-neutral scientific study of social problems. Students and faculty cultivated this aura of expert neutrality, distancing their discipline from social reform work despite their liberal use of techniques from the social survey and settlement house models of the Progressive Era.<sup>358</sup> Though sociologists shied away from reform work, the rise of scientism combined with the efforts of organized philanthropy to build a “more academic, theoretically grounded social science as a knowledge base for policy” meant that they and their fellow social scientists were more enmeshed in policy networks than ever before. The Laura Spelman Rockefeller Foundation showered University of Chicago

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<sup>357</sup> Dorothy Ross, *The Origins of American Social Science* (Cambridge: Cambridge University Press, 1991), 390.

<sup>358</sup> In keeping with the earlier ties between Chicago sociologists and social reformers, the young Burgess lived for a time at Hull-House and greatly admired Jane Addams, though he never recognized her work as anything approximating sociological research. He and Robert Park used techniques developed by Chicago women involved in social survey work, but obscured their influence. The two men were eager to separate themselves from social reformers and never credited Addams, Sophonisba Breckinridge, Edith Abbott, and other influential women scholars who shaped the Chicago school methodology presented in the green bible and used in *The City*. As Mary Jo Deegan argues, Burgess saw Addams not as a scholar or intellectual equal to be cited, but rather as the “ideal of traditional womanhood embodied.” Mary Jo Deegan, *Jane Addams and the Men of the Chicago School, 1892-1918* (New Brunswick: Transaction Books, 1988), 151.

sociologists with research money. Chicago's well-funded sociologists became particularly visible in policy circles, publishing frequently and advancing their ideas about poverty, delinquency and social disorganization, and appropriate responses to social problems.

Burgess's activities off campus, however, indicated continued personal investment in certain kinds of social reform work—anti-vice initiatives and the prevention of juvenile delinquency—which he conveniently omitted from his critique of reform movements. Ultimately, Burgess struggled to keep his reformer's instincts and desires private and separate from his sociological thought.<sup>359</sup> We can see hints of this internal wrestling match throughout his professional career, and a potential title for his proposed autobiography suggests his cognizance of it. He passed away before he could write *I Renounce Reform and the Reformer: The Story of a Conflict of Social Roles*, but this title perhaps illustrates Burgess's conviction that his “objective” and “scientific” sociological side dominated his reformist impulses in the end.<sup>360</sup> In reality, Burgess's scholarly work merely evolved to address concerns he had as a reformer.<sup>361</sup> His professional dismissal of reform work solidified in the late 1920s as his increasing use of statistical methods allowed him to both generate the “objective” knowledge of interest to policymakers and suggest how they might use it to improve the work of government. Despite his close working relationship with Park, Burgess maintained his intellectual independence and was more flexible in his research methods. He encouraged his students to map social phenomena and

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<sup>359</sup> Deegan, *Jane Addams*, 149.

<sup>360</sup> E.W. Burgess, “Table of Contents,” as reproduced in Deegan, *Jane Addams*, Table 6.1, 145.

<sup>361</sup> He opined in the 1960s that though the Department's objective in conducting sociological work was scientific, “behind it lay a faith or hope that this scientific analysis would help dispel prejudice and injustice” and ease the lives of those Chicagoans mired in poverty. See Ernest W. Burgess and Donald J. Bogue, “Research in Urban Sociology: A Long View,” in *Contributions to Urban Sociology*, eds. Ernest W. Burgess and Donald J. Bogue (Chicago: The University of Chicago Press, 1964), 5.

honed his own statistical toolkit even as Park worked to contain the department's new focus on instrumental positivism in their graduate seminar on field work.<sup>362</sup>

In keeping with his methodological training, Burgess approached the task of creating a predictive model for Clabaugh and the Illinois State Parole Board with qualitative and quantitative tools. The final prediction tool combined case study and life history methods with statistical techniques in a method known as factor analysis. This prediction technique itself, which would help the Board assess the risk of releasing prisoners, is a neat representation of Burgess's response to the feud between the "case studiers" and the "statisticians" within his department. He borrowed from both camps, acting as an intellectual and sometimes practical peacemaker for his feuding colleagues.

### **Good Risks: Institutional Knowledge and Factor Selection in Burgess's Parole Study**

Drawing on his observations of Clabaugh's process and of institutional jackets and parole outcomes for 3,000 paroled men from Pontiac, Menard, and Joliet, Burgess compiled a list of social, behavioral, and juridical details that he considered probable indicators of each man's future conduct.<sup>363</sup> As Clabaugh needed the report on the Illinois parole system within a short

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<sup>362</sup> Bulmer, *The Chicago School of Sociology*, 155. Robert E.L. Faris, "Contributions to American Sociology," in *Ernest Watson Burgess, 1886-1966: Four Talks Given at a Memorial Service* (Chicago: The University of Chicago Press, 1967), 13, found in the Donald J. Bogue Papers, Box 1, Folder 14, SCRC-UCL. Also see Ross, *Origins*, 430.

<sup>363</sup> These items included: "(1) nature of offense; (2) number of associates in committing offense for which convicted; (3) nationality of the inmate's father; (4) parental status, including broken homes; (5) marital status of the inmate; (6) type of criminal, as first offender, occasional offender, habitual offender, professional criminal; (7) social type, as ne'er-do-well, gangster, hobo; (8) county from which committed; (9) size of community; (10) type of neighborhood; (11) resident or transient in community when arrested; (12) statement of trial judge and prosecuting attorney; (13) whether or not commitment was on acceptance of a lesser plea; (14) nature and length of sentence imposed; (15) months of sentence actually served before parole; (16) previous criminal record of prisoner; (17) his previous work record; (18) his punishment record in the institution; (19) his age at time of parole; (20) his mental age according to psychiatric examination; (21) his personality type according to psychiatric examination; (22) his psychiatric prognosis." Ernest W. Burgess, "Factors Determining Success or Failure on Parole," in the *Illinois Crime Survey*, Illinois Association for Criminal Justice and the Chicago Crime Commission, comp. (Chicago: Blakely Printing Company, 1929), 522. Though Burgess and his research assistants tested 22 factors, the final prediction method found that 21 of these factors were correlated with outcome on parole. He removed factor 3, "nationality of the inmate's father."

period of time and as the academics involved in the study needed to return to their university posts, Burgess could not rely on exhaustive, long-term case studies to address his research questions. His dependence on files maintained by Illinois correctional facilities curtailed the factors he could choose from to those characteristics of an offender's life that previous prison authorities identified as significant in some way to custodial and release processes. Burgess worked with points of information contained and easily located in each prisoner's record, or classifications a sociologist reading the prisoner's record could feasibly make. Burgess likely selected these specific details after considering the limitations of standardized records included in each prisoner's jacket file, reading and interpreting his fellow researchers' conversations with prison officials, and poring over his research assistants' interviews with paroled men about going straight or returning to criminal activity after release. To a lesser extent, he may have taken public assumptions about criminality under advisement.<sup>364</sup> The sociologist's efforts to scientize parole board decisions therefore rested upon past practices of prison, board, and law enforcement personnel, unselfconsciously reproducing any assumptions and prejudices contained in the records they left behind.

Alongside limitations within the records, Burgess certainly considered his own limitations within the field of penology, using interviews with prison officials and men on parole to fill the gaps in his knowledge. Though Burgess was an eclectic researcher interested in a

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<sup>364</sup> When describing each of the 22 factors, Burgess often nods to his own understanding of public beliefs about criminality. For instance, under the subsection for "offense named in the indictment," the sociologist writes that the "general public" assumes that "certain offenses [such as sexual assault, murder, and manslaughter] are indicative of more vicious tendencies in the criminal" which would lead to parole violation. Burgess used compiled statistics from Joliet, Pontiac, and Menard to show that these assumptions were unfounded—men convicted of fraud and forgery had much higher violation rates, for instance, than men convicted of murder. Later, as a part of his breakdown of social types, Burgess writes that the prevailing public sentiment against salvageability of the "gangster" was unfounded, as "persons of this type" exhibited violation rates far below the average. Burgess, *Workings*, 222, 225. The low violation rate observed among the "gangster" type may have been because offenders attached to organized criminal operations could afford to bribe law enforcement.

variety of sociological questions, his earlier publications focused on urban studies and social pathology. In 1923, he published a brief study of juvenile delinquents, in which he explored family dynamics and relationships within children's play groups in an effort to understand the influence of social experience on personality and (to a lesser extent) behavior. His research on personal characteristics contributing to delinquency certainly informed his selection of salient factors for the parole study.<sup>365</sup> However, Burgess was unfamiliar with the inner workings of correctional institutions, the structure of society within those institutions, and the effects of confinement on men reentering free society. The research materials Burgess bequeathed to the University of Chicago show that he worked to correct this deficiency, partly by sitting in on Board proceedings and learning what he could from observations of Clabaugh's process. Further, throughout the parole study, Bruce, Harno, their research assistants, and field worker John Landesco shared materials with Burgess, which the sociologist used to understand materials contained in prisoners' institutional jacket files. Burgess needed to view jacket materials with a skeptical eye—records he considered too unreliable must be excluded from his factor analysis. Landesco's interviews with workers and administrators at Joliet, Pontiac, and Menard, in particular, guided Burgess's selection of factors from prison records to test for correlation with parole outcome. Sometime at the outset of the committee's work, Landesco sent a memo to notify Burgess of progress made in the study. The research assistant wrote that he conducted initial interviews with prison officials with an eye to "learning qualitatively the value of various

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<sup>365</sup> *The American Journal of Sociology* published Burgess's 1923 study. See Ernest Watson Burgess, "The Study of the Delinquent as a Person," *The American Journal of Sociology* 18, no. 6 (May 1923), 657-680. In this paper, Burgess attempted to uncover "the operation of social processes in the formation and development" of delinquent behavior, providing his reader with qualitative evidence gleaned through case studies (p. 668). This article also outlines categories researchers might use when analyzing case studies, including options for determining a child's "social type." Note, though, that Burgess admits in his conclusion to the piece that he concerned himself far more with the study of personality formation than with the study of factors influencing delinquent behavior.

recommendations and markings as they appear in the jackets that come before the Parole Board.”<sup>366</sup>

Burgess would have studied these interviews and others contributed by Dean Harno closely, almost certainly when considering which aspects of a man’s prison record might correlate with parole outcome. As Landesco’s memo indicates, the researchers assessed the trustworthiness of the prison officials interviewed. Whose judgment could they rely upon? This character assessment was crucial to Burgess’s study because it provided a strategy for wading through all the material in the jacket files. With an overwhelming amount of information in some cases and a dearth of it in others, Burgess had to determine the provenance of each piece of information to assess the reliability of each of the notation routinely included in each prisoner’s file. To facilitate this process, Landesco asked prison staffers and officials to offer comments and recommendations about individual prisoners, then critiqued the qualitative assessments provided by each employee. To this end, both Harno and Landesco recorded their opinions of the character and competency of prison officials and staffers to tack onto the interview transcripts they sent to Burgess.

He also needed to determine which of these universally included pieces of information could be reasonably assumed to correlate with parole outcome. To what extent might a man’s behavior in prison help researchers predict his parole outcome? Prison officials, who routinely encountered recidivists, likely had some theory as to which men would be most likely to reoffend and why. Men with sound judgment in these positions might help Burgess deduce which facts included in the record were most useful for his purposes. For instance, on the basis of his

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<sup>366</sup> John Landesco to Ernest W. Burgess, “Memorandum,” undated, Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL. Harno also sent Burgess his notes on interviews with prison officials, staff, meetings within the prison, and tours of various facilities, as indicated by Albert J. Harno to Ernest W. Burgess, May 9, 1927, Ernest Watson Burgess Papers, Box 34, Folder 7, SCRC-UCL.



interviews with prison staffers and administrators, John Landesco concluded that the punishment records so prominently placed in institutional jacket files were “only vaguely indicative of the character of the man, and little can be based upon it in deciding the feasibility of a man as a parolee.”<sup>367</sup> On the other hand, there might be useful data in the jackets that parole board members dismissed. When interviewing staff and officials at Joliet, Harno discovered that the mental health officer’s study of inmates did not factor into parole decisions, though each prisoner underwent a group mental examination and assessment by a psychiatrist upon admission. This mental health officer, Dr. Walter B. Martin, also conducted follow-up examinations with potential “mental defectives.” Martin’s work in the penitentiary was an uphill battle against administrators, who limited his access to prisoners after the intake process was complete. The psychiatrist did not choose the prisoners sent to him for treatment, and most often came into contact only with those who proved troublesome for guards. Moreover, Harno wrote that the psychiatrist “was told not to make any recommendations to the board at all.”<sup>368</sup> Joliet old-timers may have rejected Dr. Martin because his was a relatively new role within the prison, a role predicated on the treatment of inmates rather than the simpler retributive, custodial role of the prison employee accepted by Joliet guards.<sup>369</sup>

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<sup>367</sup> Landesco to Burgess, “Memorandum,” undated.

<sup>368</sup> Albert J. Harno, “Memorandum—Dr. Martin, Mental Health Officer,” March 23, 1927, 1-2, in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL. Joliet old-timers might have dismissed Dr. Martin because he worked for the Division of Criminology, under supervision of the state criminologist, rather than for Joliet’s warden or for the Superintendent of Prisons. After leaving the Illinois State Penitentiary, Martin moved to New York and continued his work at Attica and Clinton Correctional Facilities. He became warden of Attica Correctional Facility in 1943 and remained in that post until his retirement in 1959. See “Walter B. Martin Dies; Ex-Warden of Attica, 86,” *New York Times*, November 6, 1976, 18.

<sup>369</sup> Paul L. Schroeder, “Division of Criminology,” in *Thirteenth Annual Report of the Department of Public Welfare, July 1, 1929-June 30, 1930* (Pontiac: Printing and Binding, Illinois State Reformatory, 1930), 34. The Mental Health Office at Joliet opened in 1920 and initially consisted only of a psychiatrist. Dr. Martin reported to the Division of Criminology rather than the prison administration—his contact with prison administrators was limited to an advisory capacity. Dr. Martin concerned himself with recording the personal history of each inmate, conducting individual psychiatric examinations for prisoners with extraordinary life experiences or evidence of mental distress, and making recommendations for ongoing treatment. Guards, by contrast, were not permitted to engage in conversation with prisoners unless absolutely necessary. The Superintendent of Industries, a Mr. Robinson, told John Landesco

Though they would eventually emphasize the diagnostic work conducted by prison mental health professionals like Martin, Burgess and Landesco were particularly interested in the opinions of men with unfettered access to prisoners. These men were in a position to observe the behavior of each incarcerated man on a daily basis, would make note of recidivists, and might take stock of characteristics likely to prevent an offender's readjustment to civil society. Deputy Warden Kness, the official who guided Harno and Landesco through the new prison at Joliet (Stateville), impressed the researchers as a man with "valuable" recommendations for the parole board.<sup>370</sup> A former Joliet city police sergeant and twenty-year veteran of Joliet Penitentiary, Kness had been demoted under the corrupt Klein administration, only to be placed in charge of the new prison following Klein's murder. Kness fired 52 of Klein's "corrupt and incompetent" officers and keepers in his first nine months as Deputy Warden. Like the researchers, Kness expressed interest in separating first- and second-term prisoners from "incurables" and "moral degenerates," indicating an openness to reform-oriented penology.<sup>371</sup> The Austrian also placed great stock in conducting one-on-one interviews with prisoners and knew many of their personal histories in detail. As he shepherded Harno and Landesco through the new prison, he would sometimes remark in his "marked brogue" that certain prisoners should "never be released." In the solitary cell block, Kness predicted that one of the men confined there "will go along for a

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that "the officers are mainly concerned with prison discipline." John Landesco, "Interview with Mr. Robinson, Superintendent of Industries, Illinois State Penitentiary," April 1, 1927, in Ernest W. Burgess Papers, Box 34, Folder 8, SCRC-UCL. Note, too, that researchers considered detachment from the prison administration (presumably because this indicated insulation from political patronage) and lack of disciplinary responsibility within corrections institutions points in a staffer's favor.

<sup>370</sup> Landesco to Burgess, "Memorandum," undated.

<sup>371</sup> Albert J. Harno, "Memorandum," March 22, 1927, p. 2-3, in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL.

few weeks and then he will do something violent... When he has his spells he will kill without hesitation.”<sup>372</sup>

Harno later wrote that these comments made him all the more aware that the prison system and criminal code were not sufficiently equipped to manage dangerous lawbreakers, for Kness’s comments could not prevent this resident of the solitary block and others like him from reentering free society. These were the kind of prisoners likely to cause harm to society and commit headline-making crimes on the outside, men the board must be equipped to identify. Harno’s tour of Stateville even led him to conclude that indeterminate sentences should be even more indeterminate—rather than from one year to the maximum as defined by the offense, the law school dean asserted that all sentences should be from one year to life. Assuming the “matter of release were placed in the hands of men of intelligence and training,” men like Deputy Warden Kness, the public would then be assured that violent and “potentially dangerous” individuals would remain in prison for life.<sup>373</sup> Landesco’s comments were less emphatic. A memo he sent to Burgess allowed that Kness’s recommendations were useful “for the cases in which he knows facts which are relevant in the board’s decision.” Harno and Landesco concurred, however, that reliable, well-trained, scientifically-minded men were few and far between in prison. This may help explain why Burgess’s twenty-two original factors largely omitted assessments of prisoners that would have been generated inside the institutions.

If a detail included in the records came from a specific official or staff member Landesco considered incompetent or untrustworthy, Burgess might have excluded it from his prediction schema or looked for another source to confirm the information. Such was the case with

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<sup>372</sup> Albert J. Harno, “Observations at Joliet,” March 31, 1927, in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL.

<sup>373</sup> Ibid.

materials contributed by Joliet's Protestant chaplain, despite his detachment from potentially corrupt political appointees. Records of Harno and Landesco's visit to Joliet included disparaging comments about Chaplain William Albert Frye. The young research assistant and the Dean of the University of Illinois Law School recorded their negative impressions of Frye—Landesco called the chaplain "gullible" and Harno noted that he was a "mediocre man." Both also indicated that the chaplain did not "get cooperation in his work," was on poor terms with his colleagues, and spoke "much too freely" about the prison administration with inmates.<sup>374</sup> Luckily for Burgess, it seems Frye contributed little to the jacket files. Though Frye described himself as the ideal man to proffer recommendations about each prisoner, describing himself as a "psychiatrist, a penologist, criminologist, [and] social worker" who had studied prisons for many years, Landesco found that the chaplain kept no notes of his interactions with imprisoned men and that no one took his evaluations of prisoners seriously.<sup>375</sup>

Landesco and Harno also theorized that men who worked in prison for longer periods of time risked becoming inured to their surroundings. Their judgment of prisoners would then be clouded by pettier concerns, like their own advancement and power within the institution. Unable to examine their surroundings with a critical eye, they would be incapable of describing individual prisoners or observing trends over time. For instance, Harno wrote that Joliet's physician "impressed us as a small politician," "thoroughly institutionalized" and unable to consider his work beyond the daily grind. Dr. Fletcher had become so obsessed with prison discipline that he could speak of little else but the role he played in punishing prisoners.<sup>376</sup>

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<sup>374</sup> Albert J. Harno, "Interview with Chaplain William Albert Frye," March 31, 1927, p. 2-3, in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL. John Landesco, "Interview with Chaplain Frye," April 1, 1927, p. 1, in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL.

<sup>375</sup> Landesco, "Interview with Chaplain Frye," 1-2.

<sup>376</sup> Albert J. Harno and John Landesco, "Interview with Dr. Fletcher, Prison Physician at Joliet," April 1, 1927, 1-2 in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL.

Shortly after his interview with Harno, Fletcher left to assume to office of Postmaster for the city of Joliet.

Burgess would have read Harno and Landesco's interview reports alongside thousands of institutional jacket files, considering the value of each official's recommendation and gauging the quality of the written records before choosing reliable factors likely correlated with parole outcome. The information available to Burgess came directly from prison administrators and staffers, or was filtered through institutional records. Burgess acknowledged that these documents were often unreliable and therefore not ideal for creating a prognostic tool.<sup>377</sup> Moreover, the 3,000 cases he used only included record of any violation of the parole agreement. The sociologist's ideal study would have involved extensive interviews with the paroled man, his family, and his employer, which would enable Burgess to increase the accuracy of his prediction system, determining whether the non-violator of parole had actually "gone straight" or merely eluded law enforcement. Due to budgetary and temporal constraints, however, Burgess tallied only non-violators, those men who had not been arrested on the basis of a parole violation or the commission of a new offense.<sup>378</sup> His contemporary academic writings lend insight into his probable frustrations in developing his forecasting method: the shortcomings of the jacket files for the purpose of an ideal sociological case study, and thus, more accurate predictions. Ideally, the prediction method would allow the sociologist to create a picture of each individual in

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<sup>377</sup> But not because they were produced by the institution, with all of the distortions of each prisoner's story that might imply. He was aware of this, as his article discussed on the next page makes clear, but believed institutional practices could be changed in order to verify information offered by prisoners, police, and the courts. The nature of the prediction method requires a sociologist to record and interpret extensive life histories.

<sup>378</sup> In the committee's report, he devoted space to a careful explanation of the difference between non-violation of parole and "making good." To make good, the former prisoner must be "gainfully employed in a legitimate vocation" and become a "wholesome" member of his community. Burgess noted that this meant a change of attitude, and often the man's rejection of friends and associates from before his incarceration. See Ernest W. Burgess, "What Proportion of Paroled Men Make Good?" in Andrew A. Bruce et al., *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 215, 218.

question, with close attention to his “acts and habits,” attitudes, and “philosophy of life.” Only then could each prisoner be elevated above the recurrent features found in each case file—poverty, unemployment, parental desertion—and separated from the rest on the basis of his individual characteristics and the unique combination of environmental forces acting upon him.<sup>379</sup> Then, presumably, he would be aggregated again, sorted into the appropriate risk category with similar offenders.

In a paper published in *Social Forces* in 1928, Burgess lamented that “existing case records seldom, or never, picture people, in the language of Octavia Hill, with their ‘passions, hopes, and history.’” The sociologist or social worker perusing the average case file could only occasionally catch a glimpse of the person behind the documents—by way of the “direct quotation, a flash of individuality.”<sup>380</sup> Burgess wanted to take the voice of the social worker or case manager out of the interview records by employing the first-person reporting method. This way, when the sociologists or social workers conducting larger-scale studies read over the records, they could interpret the statements made by the interviewee without worrying that the case file had been tainted by what Burgess called “the personal equation of the work.”<sup>381</sup> Burgess, Landesco, and research assistant Clark Tibbitts could not possibly conduct and record interviews with the 3,000 men involved in the parole study to avoid viewing each case through an institutional lens. But the inadequacy of the materials at hand did not prevent Burgess from

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<sup>379</sup> Ernest W. Burgess, “What Social Case Records Should Contain to be Useful for Sociological Interpretation,” reprinted from *Social Forces*, Vol. VI, No. 4 (June 1928), 526-527, in Ernest W. Burgess Papers, Box 196, Folder 1, SCRC-UCL.

<sup>380</sup> Ibid. British social reformer Octavia Hill (1838-1912) was an authority on urban housing and poverty whose views influenced public policy and private philanthropy in Britain and several other countries. She is best known for her role in founding the National Trust in 1895. Historians studying her life and work, however, have noted that her legacy is mixed due to the moralistic and classist underpinnings of her charity initiatives. For more, see Elizabeth Baigent, “Octavia Hill: ‘the Most Misunderstood... Victorian Reformer,’” in *Octavia Hill, Social Activism, and the Remaking of British Society*, eds. Elizabeth Baigent and Ben Cowell (London: School of Advanced Study, University of London, 2016), 3-26.

<sup>381</sup> Ibid, 528.

choosing twenty-two factors from the records that he believed were correlated with success or failure on parole:

“parental status, including broken homes;” “type of criminal;” “social type;” “type of neighborhood;” “resident or transient in community when arrested;” “statement of trial judge and prosecuting attorney;” “nature and length of sentence imposed;” “months of sentence actually served before parole;” “previous criminal record of prisoner;” “previous work record;” “punishment record in the institution;” “mental age according to psychiatric examination;” “personality type according to psychiatric examination;” and “psychiatric prognosis.”

These categories would add up to a statistical risk profile for each man who came before the board, indicating what percentage of ex-prisoners with similar statistical profiles succeeded on parole.<sup>382</sup> Burgess was not the first social scientist to study parole prediction, but he was the first to actually compose an experience table that could be used for prognostic aims.<sup>383</sup> He created a test comprised of twenty one factors, used to rate each prisoner, and applied the test to his 3,000 sample cases, assigning points for each factor correlated with success in parole. For instance, though the overall violation rate for prisoners paroled from the Pontiac Reformatory was 22.1%, only 8.8% of boys paroled from Pontiac who had been gainfully employed at the time of their arrest violated parole. Thus, a prospective parolee was assigned one point in the positive category to contribute to his overall score if he worked regularly at the time of arrest. If

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<sup>382</sup> For the purposes of Burgess’s study, success on parole is defined as non-violation of the parole agreement. By non-violation, Burgess “meant that the person has not been apprehended in the violation of any parole regulation or of any law.” Burgess clearly preferred to define a successful parolee as one who “made good” on parole, but the data available to him precluded this. Burgess’s definition of making good was more expansive than non-violation of the parole agreement. An individual who made good on parole underwent a change in attitude, declined to spend time with his or her old associates, secured gainful and legal employment, and participated “as a wholesome member of the community in its different activities.” All quotes from Ernest W. Burgess, “Factors Determining Success or Failure on Parole,” in the *Illinois Crime Survey*, 518-520.

<sup>383</sup> Professor Sam B. Warner was first, publishing a study of the parole records of ex-prisoners from Massachusetts in order to determine which criteria contained in the records were correlated with parolability. See Sam B. Warner, “Factors Determining Parole from the Massachusetts Reformatory,” *Journal of the American Institute of Criminal Law and Criminology* 14 (May 1923-Feb. 1924), 172-207. For further review of the literature on parole prediction published prior to Burgess’s study, see William F. Lanne [pen name for Nathan Leopold], “Parole Prediction as Science,” *Journal of Criminal Law and Criminology* 26 (Sept. 1935), 377-400 and Harcourt, *Against Prediction*.

a given case had a positive score on sixteen to twenty-one of these factors, Burgess found, there was a 98.5% chance that particular prisoner would not violate his parole agreement. Burgess predicted that prisoners who earned positive points on only two to four factors would commit a violation or be arrested on a new charge 76% of the time.

Prediction tables, with their gloss of scientific objectivity, could increase the efficiency of the board and looked a lot less like guesswork than the qualitative methods described by Clabaugh. While slotting each prisoner into some of the categories that would determine allocation of points did involve qualitative work, the prediction percentages reached in the end allowed Board members to point to a definitive risk profile for each prisoner. Assigning points for pieces of information already available in the prisoners' record—and often relating to his or her past—meant that little room was left for rehabilitation within the institution. The reformers who pushed for parole legislation often stated that parole was the culmination of the rehabilitative process: both a chance to see whether or not an ex-prisoner had truly reformed and a way to aid the former prisoner in his or her transition to free society. But in parole prediction models, a good record made in prison counted for little.<sup>384</sup> For the researchers, then, a prisoner's fate before the board should depend largely on the case history of his or her life prior to incarceration.

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<sup>384</sup> Research assistant John Landesco concluded in a memo to Burgess that punishment records were next to useless when assessing a man's character and suitability for parole. During an interview with W.B. Barrowman, then acting warden at Joliet, research assistant John Landesco copied out what Barrowman assured him was a "typical" day's list of prisoner rule violations. These included "crime against nature," "assaulting inmate with an iron bar," "wasting bread, throwing around yard," "talking in chapel on Sunday," "insolence," and "escaping from quarry." Landesco noted that many of these rule violations seemed minor and unrelated to how a man might get along outside prison walls. He also observed, apparently after discussion with Barrowman, that men with lengthy criminal histories and multiple prison stints were "as likely to have a good record in prison, in fact, a spotless record in prison" as first-termers. John Landesco interview with W.B. Barrowman, Acting Deputy Warden at the Old Prison, undated, Ernest Watson Burgess Papers, Box 38, Folder 4, SCRC-UCL. Also see John Landesco, "Memorandum," undated, Ernest Watson Burgess Papers, Box 38, Folder 4, SCRC-UCL.



## **“I’ll Tear the Pen Block from Block”: Unrest, Economic Depression, and the Turn Towards Scientific Management**

When the committee’s report, *Workings of the Indeterminate Sentence Law and Parole System in Illinois*, was published in 1928, it was not clear that the state would adopt any of Burgess’s prescriptions for the parole system. Clabaugh immediately tabled the report, passively rejecting the idea of instituting an actuarial prediction system. Perhaps he feared requesting additional financial support from the state legislature needed to fund the cost of additional changes to the board and to parole supervision. Or maybe he hesitated to adopt the prediction system because there was no time to test its accuracy during his administration. After all, it would have taken several years and multiple test cohorts of paroled men and women for the committee to come to any conclusion as to the reliability of the actuarial method.<sup>385</sup> His board continued its conservative practice of paroling few prisoners. As a result, institutional populations increased dramatically, causing severe overcrowding at Pontiac, Menard, and Joliet-Stateville. Ultimately, it was the prisoners themselves that convinced Illinois legislators to experiment with the Burgess method.

By the time Clabaugh resigned his post in 1929, he boasted that there were over 1,000 more prisoners confined in Illinois penal institutions than when he began his term. The Chairman praised his board for acting “judiciously and decisively in the public interest” by keeping

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<sup>385</sup> For this reason, even the committee hesitated to recommend immediate adoption of the predictive method. Instead, it suggested that “the Parole Board *seriously consider* the placing of its work on a scientific basis by making use of the method of statistical prediction of the non-violation or violation of parole both in the granting of paroles and the supervision of paroled men.” It did not advise Clabaugh to adopt the predictive instrument outlined by Burgess. This contrasts with language used in other recommendations advanced by the committee. For instance, in another recommendation, the committee asserts that parole officers “*should be* chosen of persons trained for the different divisions of the work who are likely to show progression and insight in this field instead of being merely political hangers-on.” The committee’s recommendations generally do not ask Clabaugh or the rest of the board to “consider” making a change, but rather outline the current practice of the board and then state what “should” be done instead. Andrew A. Bruce, Ernest W. Burgess, Albert J. Harno, and John Landesco, *Workings of the Indeterminate Sentence Law and Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh, Chairman, Parole Board of Illinois* (Chicago, 1928), 253-270.

prisoners convicted of violent crimes behind bars and for refusing to allow the pressures of prison congestion to influence their rulings. He left his post with a word of warning: that leniency in the parole system, whether a product of “crooked politics” or “unintelligent sentiment,” could undo the work of law enforcement and the public in the fight against organized crime. A sustained practice of releasing offenders from prison prematurely could render parole a tool for hardened criminals rather than a finely calibrated instrument for social rehabilitation.<sup>386</sup>

Unsurprisingly, word on the cellblock was that Clabaugh was “too hard” on prisoners. The prison population skyrocketed, tensions within Illinois prisons rose, and frustrations with the parole board mounted during his administration. A seasoned inmate who served time in Joliet while Clabaugh headed up the parole board recalled in 1935 that “nine cases out of ten where a man would go up before Clabaugh he got all of his time.”<sup>387</sup> And despite Clabaugh’s endorsement of the reforms called for in Burgess, Harno, and Bruce’s 1928 report, few changes were made to the board or the corrections institutions responsible for housing—and ostensibly rehabilitating—prisoners.<sup>388</sup> Anger with the parole board and the belief that its members often left men incarcerated for much longer than necessary was undoubtedly a contributing factor to

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<sup>386</sup> “Clabaugh Warns Against Lenient Parole System: Sentiment Often Defeats Justice, He Says,” *Chicago Daily Tribune*, Sept. 8, 1929, 27.

<sup>387</sup> Eddie Jackson as quoted in John Landesco, “Politics and Administration in the Practise of Penology,” *Journal of Criminal Law and Criminology* Vo. 26, No. 2 (July 1935), 245.

<sup>388</sup> A bill approved in July of 1927 was responsible for the last substantial changes to the Board of Pardons and its administration. The 1927 Act left the Board of Pardons unchanged but separated it from the Board of Paroles, which would be composed of the Supervisor of Paroles (then Clabaugh) and nine other members appointed by the governor. This Board was not tasked with the supervision of prisoners following their parole from the institution. Rather, it was a semi-judicial body that conducted parole hearings and granted or rejected applications for supervised release. Burgess, Harno, and Bruce’s report suggested a reorganization of the parole Board with the purpose of limiting political influence over its members. As Andrew Bruce reiterated in a 1931 article, the committee urged the appointment of well-educated Board members versed in criminal law, psychiatry, education and other relevant fields for fixed terms of office. Moreover, Bruce and his fellow academics called for the Board of Paroles to be given the discretion and privileges of a court of law because its members actually determined the length of time men and women spent in corrections facilities. This would mean that the Board could issue subpoenas in order to gather more extensive case histories. See Andrew A. Bruce, “The History and Development of the Parole System in Illinois,” in *Workings*, 45; Andrew A. Bruce, “Penal Administration in Illinois,” *Journal of Criminal Law and Criminology* 22, no. 4 (Nov. 1931), 483-486.

violence at Joliet in the 1930s, much as it was a catalyst for Warden Klein's murder a few years earlier. Clabaugh and his successor both found themselves facing a legislative committee



*Figure 9 State police survey the damage to Stateville's panopticon-style cellhouse following the 1931 riot. Photo published in Gangsters & Grifters: Classic Crime Photos from the Chicago Tribune.*

investigating the causes of prison riots in the spring of 1931, following an uprising that caused an estimated \$1,000,000 worth of damage to the new prison at Stateville and left three incarcerated men dead.

The new superintendent of pardons and paroles, William Cadet Jones (known as W.C. Jones), had quickly gained a reputation among inmates, guards, prison officials, and state legislators for imposing even lengthier periods of incarceration on prisoners than Clabaugh. As legislative committee investigators passed cellhouses during an inspection of the buildings

destroyed by the riot at Stateville, prisoners shouted out their oppositions to the parole board under Jones's administration. One man threatened to "tear the pen block from block" unless demands for a "new parole board" were met.<sup>389</sup> Prisoners were not the only opponents of the board—indeed, the committee might have ignored reports of the Board's approach to sentencing if the critiques leveled came only from incarcerated men and women.<sup>390</sup> Among those officials who testified to the legislative committee was Warden Henry C. Hill. Warden Hill stated that indeterminate sentencing was "all right" in theory, but the parole board consistently left men in prison for too long because of emphasizing the severity of the offense rather than the "merits of a man."<sup>391</sup> The prison's Catholic priest and Episcopal chaplain agreed, blaming the board members for the weeklong uprising at the institution. Reverend George Whitmeyer cited classism on the part of board members as a contributing factor, arguing that "well-dressed relatives of inmates get every consideration by the parole board," while "poorly dressed" relatives who "look as though they amounted to little" were quickly dismissed from hearings.<sup>392</sup> Legislators responsible for interviewing guards and prison officials found that many were critical of the board.<sup>393</sup>

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<sup>389</sup> "Prison Riot Inquiry Begins: Convicts Quiet as Legislators Study Mutiny," *Chicago Daily Tribune*, March 16, 1931, 1. Some of the anger on the part of prisoners towards the parole board was undoubtedly due to the changes in sentencing for armed robbery. Before 1927, the set sentence for the crime was indeterminate, from ten years to life. From 1927-1929, the parole Board permitted good time deductions for offenders convicted of armed robbery. This meant that many men convicted of robbery with a gun were released after 6 years and 3 months. In the fall of 1929, the State Supreme Court ruled that the parole board could no longer allow deduction of time for good behavior until the prisoner had served the minimum sentence of ten years. The newly appointed board members, who began their jobs only weeks after this decision was handed down, were therefore placed in an awkward position where their predecessors had released persons convicted of armed robbery much sooner than they were able to. See Louis L. Emmerson, *Biennial message and quadrennial report to the 58<sup>th</sup> General Assembly, Illinois* (Springfield: Journal Printing Company, 1932), 83-84.

<sup>390</sup> In their report, the legislative committee wrote that prisoner criticisms of the parole Board were "only natural and should not be given any considerable weight unless supported by other evidence." Illinois State Representatives Roger F. Little, William G. Thon, Harry M. McCaskrin, Michael L. Igoe, and M.E. Bray, "The Joliet (Illinois) Legislative Investigation," *Journal of Criminal Law and Criminology* Vol. 22, No. 2. (July 1931), 258.

<sup>391</sup> Henry C. Hill as quoted in "Joliet Warden Assails Prison Parole System," *Chicago Daily Tribune*, March 21, 1931, 1.

<sup>392</sup> Reverend George L. Whitmeyer, quoted in "Prison Parole Board Assailed: Chaplains Blame Riots at Joliet on Officials," *Los Angeles Times*, March 22, 1931, 4. Unfortunately for Whitmeyer, the press latched onto the fact that he had served time in New York's Elmira Reformatory and he was forced to resign.

<sup>393</sup> Little et al., "Investigation, 258.

Jones appeared unruffled by the charges, declaring that he paroled a far greater percentage of the prison population in a year than Clabaugh had before him (12.4% as opposed to 9.2%) and inviting the legislative committee to observe the board in action. Representative Michael Igoe attended the first parole board hearing following the riots on behalf of the committee. Igoe recalled hostility of prisoners towards the board during his visit, but commented after the session that the board treated the friends and relatives of prisoners fairly. The committee concluded in its report that the parole board members were “persons of unimpeachable integrity, high purpose, [and] unusual ability” with an interest in prisoner welfare as well as an understanding that “sympathy must not be allowed to override judgement.”<sup>394</sup> Ultimately, the investigation found that the greatest ambition of the board was also its greatest problem: to determine the ideal time for each prisoner to return to society. But this, according to the legislators, was a matter of opinion subject to a great many mitigating factors outside of the board’s control. When such an opinion was decided on by any board there would always be the danger that it would “be a mistaken one.”<sup>395</sup> However, most prisoners had to be released at some point, and since nearly all criminal sentences in Illinois were indeterminate, it was likely that the board would settle the exact release date for each inmate.

The advent of the Great Depression pushed the state towards new management and classification solutions within its prisons—institutional populations continued to grow in the 1930s, but state budgets shrank and the federal government showed little interest in prison-building projects. As was the case in many other states, the number of persons incarcerated in Illinois’s prisons, reformatories, and correctional schools rose steadily during the 1920s. Illinois initially approached this increase with approved funds for the construction of additional

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<sup>394</sup> Ibid.

<sup>395</sup> Ibid., 259.

corrections facilities.<sup>396</sup> But by 1931, the legislature grew concerned with the rising cost of housing and “adequate care” for prisoners and expressed alarm that the “apparent unending program of [prison-] building” would unduly burden taxpayers.<sup>397</sup> To help ameliorate the unrest and expenses associated with an expanding web of correctional institutions, legislators in the House of Representatives and the Senate set aside \$25,000 for a joint legislative Commission on Prisons, Probation, and Parole to make a comparative study of Illinois’s penal system relative to prison administration in Europe and Canada.<sup>398</sup> Legislators tasked Commission members with studying methods used to keep prison populations in check elsewhere.

After traveling to seven countries during the summer of 1931, the Commission submitted a 48-page report to Governor Louis L. Emmerson describing the penal systems they observed, recounting conversations with foreign prison administrators, and advancing suggestions to improve Illinois’s jails, prisons, parole system, and criminal code. While Commission members concluded that if the Illinois parole system were “properly administered” it would be “a great improvement upon any prevailing system that has come to our notice,” they also recommended that Illinois take a cue from certain policies and practices they observed in Canada and Europe.

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<sup>396</sup> Vandalia State Farm opened in 1921, prisoners completed the buildings at Stateville Correctional Center in 1925, and the Illinois State Reformatory for Women began operations in 1930.

<sup>397</sup> The Illinois Joint Legislative Commission on Prisons, Probation and Parole, *Report of the Illinois Joint Legislative Commission on Prisons, Probation and Parole, December 1931* (Springfield: Schnepf & Barnes, Printers, 1932), 5. This particular Commission formed both by necessity and convenience. A committee comprised of members of the Illinois House of Representatives visited New York, Massachusetts, and the District of Columbia to search for a solution to the idleness among Illinois inmates they believed was responsible for riots at Joliet and Stateville in 1931. While visiting a prison in New York, the committee met Alexander Paterson, the Prison Commissioner and Director of Prisons in England, who was in the U.S. to conduct a survey of American prisons. As the Commission on Prisons, Probation, and Parole recounted in their 1931 report, the House and Senate had already made plans to study penal systems that classified offenders on the basis of their “character” rather than their offense. As England’s system seemed to fit this description, the House and Senate concluded that the best way to go about Commission members were: Lieutenant Governor Fred E. Sterling, Senator Richard J. Barr, Senator Harry G. Wright, Senator Arthur A. Huebsch, Senator John J. Broderick, Senator Thomas J. Courtney, Representative Gordon W. Childs, Representative Rollo R. Robbins, Representative Edward M. Overland, Representative Michael L. Iggoe, Representative Michael Fahy, Judge Dennis E. Sullivan, Judge Harry M. Fisher, and clerk William Hart.

<sup>398</sup> In the summer of 1931, the commission embarked on a journey through Canada and Europe, visiting England, Germany, Holland, Czechoslovakia (present day Czech Republic), France, and the Irish Free State (present day Ireland).

Commission members asserted that their state failed to adequately acknowledge one essential fact: “that... all prisoners will ultimately be returned to society and that the function of the prison officials is to make each prisoner as fit for a life of freedom as his mental and moral state will possibly allow.”<sup>399</sup> To this end, they called for the reform of Illinois institutions and made 17 recommendations to the legislature and the Department of Public Welfare. They asked that any new sentencing legislation allow judges to consider the “character” of the offender as well as the crime he or she committed, called upon prisons to segregate offenders “according to type,” and beseeched the division of Pardons and Paroles to make changes necessary to grant parole “at the earliest possible time” to each prisoner.<sup>400</sup> Better prison management, increased attention to the classification of prisoners within corrections institutions, and the increased use of probation and parole, the Commission found, would combat overcrowding in Illinois prisons and reduce recidivism.

It was only in the wake of this legislative investigation of the prison system and parole board that the Division of the Criminologist began to test the Burgess method in earnest. Cases coming before the parole board were analyzed according to this method and the psychiatrist’s report received by board members included a prediction, reading “This man falls in the group of which from –% to –% have been found to violate parole agreement.”<sup>401</sup> The 1932 election brought reform-minded former probate judge Henry Horner to the governor’s mansion and allowed experimentation in the Department of Public Welfare to continue. Horner even expressed his approval of the parole prediction studies by appointing John Landesco, Burgess’s former research assistant, to the parole board soon after taking office. Through Landesco’s

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<sup>399</sup> Joint Legislative Commission on Prisons, Probation, and Parole, *Report*, 8.

<sup>400</sup> *Ibid*, 9.

<sup>401</sup> Ferris F. Laune, *Predicting Criminality: Forecasting Behavior on Parole* (Evanston: Northwestern University Press, 1936), 5.

efforts, the Illinois state legislature allocated funding in 1933 for the Division of Pardons and Paroles to employ sociologists to “make analyses and predictions in the cases of all men being considered for parole” and to improve the existing prediction methods.<sup>402</sup> The Burgess system of parole prediction could reduce overcrowding and remove any appearance of arbitrariness or political favoritism from the parole board’s decision-making process. Even better, it did not require significant financial investment—instituting the actuarial prediction system would cost a fraction of building a new prison to relieve the effects of overcrowding.

Under Horner’s administration, Illinois joined the tiny cohort of states that regulated or guided parole board decisions in any way beyond the discretion of board members during the interwar period.<sup>403</sup> When Illinois adopted the Burgess system, the sociologist who created it hoped that his prediction model would be used as a guiding tool. It could allow for the instinctual judgement of a seasoned investigator, but temper this decision-making with the cool, objective eye of the social scientist. Attentive and adaptive to developments in criminology, the mind sciences, and penology, the prediction instrument could also be refined over time to help Board members respond more effectively to criminal wiles and obfuscation. The predictive model would give board decisions the gloss of objectivity needed for the public see parole as force for social good, an instrument designed to protect free society.

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<sup>402</sup> Ibid.

<sup>403</sup> When the *Attorney General’s Survey of Release Procedures* was published in 1939, only twelve jurisdictions and the federal government investigated prisoners’ “social, physical, educational, and psychiatric record” prior to parole hearings. The twelve jurisdictions were: California, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New York, New York City, North Carolina, Pennsylvania, Washington, and Wisconsin. These investigative reports likely helped parole board members establish rough guidelines for parole decision-making. United States Department of Justice, *The Attorney General’s Survey of Release Procedures, Volume 4: Parole* (Washington: United States Government Printing Office, 1939), 146. States did not begin to adopt actuarial prediction devices until the 1950s and 1960s. Minnesota’s St. Cloud Reformatory experimented with Ohlin’s experience tables in the 1950s, but later abandoned them. Ohio began testing the Minnesota Multiphasic Personality Inventory (MMPI) for use in parole prediction in 1961. California, Massachusetts, and Colorado began developing their own experience tables in the 1960s. Victor H. Evjen, “Current Thinking on Parole Prediction Tables,” in *Probation and Parole*, eds. Barbara A. Kay and Clyde B. Vedder (Springfield: Charles C. Thomas), 141.



## CHAPTER FOUR

### Who Makes Good?: Ernest W. Burgess and the “Science of Prediction”

Nearly a decade after the publication of *Workings of the Indeterminate Sentencing Law and Parole System in Illinois*, Ernest W. Burgess scribbled a rough outline for a talk assessing “The Future of Parole in Illinois.” In large, loosely formed letters at the top of an index card-sized sheet torn from a notebook, the professor reminded himself to “Take stock.” He also posed a question. Was the parole system “better or worse than when Judge Bruce, Dean Harno + I made our report 10 years ago?” For Burgess, the answer was “better.” Moreover, because parole was only one small part of the criminal justice system a person encountered post-conviction, this answer extended to the entirety of prison administration in Illinois. Burgess’s writing became hurried and messy as he reminded himself of the ways in which the criminal justice system had improved, including references to changes in record-keeping, the prison intake process, parole supervision, and prison labor. At the top of the list, Burgess proudly referenced the report he, Bruce, and Harno made to Parole Board Chairman Hinton G. Clabaugh in 1928: “I go over our recommendations + am amazed at number now in effect.”<sup>404</sup>

Burgess had good reason to crow. He claimed responsibility for introducing science to the parole decision—the methods behind a dramatic drop in parole violation rates in Illinois. From 1929-1930, 31% of men and women on parole violated their agreements, prompting the state to issue arrest warrants so they could be returned to prison. In 1933, the first year the state officially used the Burgess method of parole prediction, the number of violators fell dramatically, comprising just 16.1% of all men and women on parole.<sup>405</sup> His suggestion that

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<sup>404</sup> Ernest W. Burgess, handwritten notes for “Future of Parole in Illinois,” Ernest Watson Burgess Papers, Box 193, Folder 1, Special Collections Research Center, University of Chicago Library (hereinafter SCRC-UCL).

<sup>405</sup> Frank D. Whipp, “Division of Prisons,” in *Thirteenth Annual Report of the Department of Public Welfare, July 1, 1929 to June 30, 1930* (Springfield: State of Illinois, 1930), 20. Ernest W. Burgess, “Parole and the Indeterminate

parole be placed on “a scientific basis” by way of actuarial forecasting enabled the board to view each man’s case through the lens of his personalized risk score. Instead of hazarding a guess based on the stacks of papers attached to the prisoner’s institutional jacket file, parole board members could examine the facts of the case and the prisoner in front of them while knowing exactly how many men like him had violated parole in the past.

Burgess submitted the initial study outlining his prediction instrument as his section of the report to Clabaugh from the Committee on the Study of the Workings of the Indeterminate Sentence Law and of Parole in Illinois. As outlined in Chapter 3, he based the instrument on the outcomes of 3,000 cases of men paroled from Illinois’s three major correctional facilities—Pontiac, Menard, and Joliet—prior to December 31, 1924.<sup>406</sup> First, he selected details of each man’s personal history that could be commonly found in or deduced from material held in each prisoner’s institutional jacket file. These factors included previous criminal record, type of crime committed, and psychiatric prognosis, among others. Then, he studied his 3,000 cases to determine if these factors could be correlated with parole violation. To determine which factors were salient, he calculated the probabilities of success or failure on parole associated with the variables for each factor by comparing them to the total violation rate for the institution.<sup>407</sup> He then determined whether a man was a favorable or unfavorable risk overall risk based on the combination of his favorable and unfavorable risk scores using these factors. This method is

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Sentence,” *The Prison System in Illinois: A Report to the Governor of Illinois by the Illinois Prison Inquiry Commission* (Springfield: State of Illinois, 1937), 618.

<sup>406</sup> The two possible outcomes were violation and non-violation of parole. Ernest W. Burgess, “What Proportion of Paroled Men Make Good?” in *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Springfield: Department of Public Welfare, 1928), 215.

<sup>407</sup> For instance, if about 28% of all men paroled from Pontiac could be expected to violate parole, but only 10% of all married men paroled from Pontiac violated parole, Burgess would find that marriage was correlated with non-violation.

STATE OF ILLINOIS  
DIVISION OF PAROLE AND PROBATION  
PREDICTION REPORT OF THE SOCIOLOGIST-ACTUARY  
JOLIET STATE PRISON  
JOLIET-STATEVILLE BRANCHES

PRISONER NO. 35-F Nathan Berman JOLIET (January 2, 1935)

FACTORS	ITEM	PER. VIOL.
1. AGE AT ENTRY	24 yrs	2
2. VIOLENCE	Twenty-three years	2
3. TIME ALREADY	Nine years and nine months	2
4. AGE	Twenty-six years (11-21-01)	2
5. RACE	Polish	2
6. TYPE OF OFFENSE	Reckless	2
7. CRIMINAL RECORD	Extensive juvenile record	2
8. PRESENT RECORD	Five (Major, two minor)	2
9. HOME STATE	Illinois	2
10. FAMILY INTEREST	Family	2
11. MENTAL STATE	Single	2
12. SOCIAL TYPE	Socially maladjusted	2
13. WORK RECORD	Casual	2
14. WORKING AT ENTRY	No (one year)	2
15. LAST EMPLOYMENT	Coal detail	2
16. CRIMINAL SOCIETY	Resident	2
17. COMMUNITY	Chicago	2
18. REEDUCATION	Area five	2
19. USE OF ALCOHOL	Temperate	2
20. VENEREAL INFECTION	None	2
21. PAROLE COMMUNITY	Chicago	2
22. PAROLE REEDUCATION	Area five	2

FACTORS	ITEM	PER. VIOL.
23. FAVORABLE	Twenty-three years	2
24. NUMBER OF ASSOCIATES	One	2
25. MENTAL STATE	Superior	2
26. PERSONALITY RECORD	Responsible	2
27. PSYCHIATRIC EXAMINATION	Unfavorable	2
TOTAL		10 30

THIS INMATE IS IN A CLASS IN WHICH 54 PER CENT MAY BE EXPECTED TO VIOLATE  
THE PAROLE AGREEMENT 54 PER CENT MAY BE EXPECTED TO BE MINOR VIOLATORS  
54 PER CENT MAY BE EXPECTED TO BE MAJOR VIOLATORS

Figure 10 Prediction report of the Joliet-Stateville sociologist-actuary for prisoner number 35-F, Nathan Berman. Note that the factors are slightly different from those used in Burgess's original prediction method. Records found in the Ernest W. Burgess Papers, Box 35, Folder 8, SCRC-UCL.

confusing to explain but simple to understand visually. In this image of a 1935 parole prediction report, we can see that Joliet prisoner Nathan Berman into 15 categories associated with unfavorable parole outcomes and 12 categories associated with success on parole, placing him in a risk group with other men who scored similarly. To gauge the relationship between these scores and violation rates, Burgess and his research assistant, Clark Tibbitts, constructed an experience table based on the data from their 3,000 cases and listing the percentage of men who could be expected to violate within each risk group. What was the probability that a man with 15 unfavorable factor scores would violate parole? If Burgess compared Berman with other prisoners who scored similarly, he would find that Berman was

slightly more likely to violate parole than to receive a final discharge outside prison walls. As the image shows, Nathan Berman's final prognosis reads: "This inmate is in a class in which 54 per

cent may be expected to violate the parole agreement, 26 per cent may be expected to be minor violators, and 28 per cent may be expected to be major violators.”<sup>408</sup>

Burgess’s actuarial prediction system presented penal administrators with a profile of the ideal parole risk for the first time—a statistical portrait of the man most likely to receive his final discharge without violating the conditions of his release.<sup>409</sup> It could also unmask the potential recidivist. At the outset, the system was dependent on the recidivists in Burgess’s 3,000 cases: the men returned to prison from parole after minor or major violations. These recidivists would have disproportionately come from the groups frequently harassed by law enforcement, men of color in overpoliced neighborhoods. Ernest W. Burgess decided which factors were salient and should weigh into decision-making about prisoners and which were irrelevant based on this group of violators, thus reproducing the prejudices and assumptions made by street level police officers. He relied on past records even as he worked to devise prediction categories rooted in

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<sup>408</sup> Berman was convicted of rape by Chicago’s Juvenile Court once before as a young teen and sent to serve time at the state reform school, St. Charles School for Boys. Months after being confined to the school, Berman escaped. He returned to Chicago, where he and a friend sexually assaulted another young woman at gunpoint. Berman and Richard Fitzgerald had jumped up on the running board of a man’s car, and threatened to shoot if he did not exit the vehicle. They took the vehicle and kidnapped the young woman inside, later stopping to rob and rape her on a railroad embankment. Once caught, Fitzgerald and Berman held in jail with adult suspects. Though the Juvenile Protective Association protested the jailing of the two boys, arguing that they should instead be sent to St. Charles, the police insisted that the pair were “too tough to be confined with ordinary delinquents.” Fitzgerald and Berman were tried and sentenced to twenty and twenty-three years in the penitentiary, respectively. In his closing argument, the state prosecutor implored the jury to “send these two away for the safety of womanhood in our city.” See “Seek to Prove Captive Morons Attacked Many: Women, Recent Victims, View Young Thugs,” *Chicago Daily Tribune*, December 4, 1924, 3 and “Girl Attackers Get Long Terms in Penitentiary,” *Chicago Daily Tribune* February 6, 1925, 3.

<sup>409</sup> Dan Bouk’s *How Our Days Became Numbered* explores a similar process of “making Americans into risks”—using statistical information about groups to produce knowledge about an individual. Bouk focuses on life insurers, examining the ways in which companies developed methods to determine and manage the risks of policyholders and potential clients. While Bouk’s insurers mostly sought to profit from their risk-making, social scientists like Burgess saw their research as a cure for society’s ills. Dan Bouk, *How Our Days Became Numbered: Risk and the Rise of the Statistical Individual* (Chicago: The University of Chicago Press, 2015). Burgess’s approach is perhaps most similar to the Federal Housing Administration’s mortgage risk-rating system, in its initial success and the harm it caused to already marginalized peoples. Though FDA maps immediately evoke the illegal practice of “redlining” for scholars familiar with U.S. history, the FDA officials who used maps in neighborhood risk-rating thought that they had developed “a set of objective decision-making aids and a housing program above politics.” It is not coincidental that Burgess’s assessment of his own risk rating system mirrors this view. Jennifer Light, “Discriminating Appraisals: Cartography, Computation, and Access to Federal Mortgage Insurance in the 1930s,” *Technology and Culture* 52, no. 3 (July 2011): 486.

contemporary sociological and psychological research, categories that could speed the process of reading and evaluating institutional jacket files for overworked board members and scientize parole in the eyes of the public. Burgess's prediction categories relied heavily on social scientific assumptions about poverty, ethnicity, and race that were undergirded by decades of social survey work that equated the effects of racism and class discrimination with an individual's cultural pathology and moral failings. The number of categories dependent on past law enforcement and court actions further replicated race and class discrimination written into the system by way of Burgess's methodology and compounded injustice the potential parolee would have endured at other levels of the legal system. The predictive significance of each prisoner's past ensured that men were marked as good or poor parole risks from the moment they set foot in the penitentiary.

Burgess chose the final twenty-one factors correlated with parole outcome because they created two sociological portraits: one of the ideal parole risk, and one of the potential recidivist. They would allow the board to *know* the criminal, to peel back layers of apparent repentance and reformation to discover the true criminality at the core of the deceiver. At first, racial and ethnic markers were not explicitly included in Burgess's risk scoring method.<sup>410</sup> But the racism that permeated each level of the criminal justice system and shaped everyday life in Chicago for men of color negatively affected their risk scores in many of the factors used in the original prediction system. Economic disadvantages, too, contributed to perceptions of risk. Poverty and blackness, always liabilities for men caught up in the criminal justice system, were now written into Illinois

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<sup>410</sup> Burgess tested "nationality of the inmate's father," but ultimately did not include this factor in his final prediction method, perhaps because the largest group of violators "was that of the native white of native parents." African Americans comprised the second-largest group of violators, with recent immigrants exhibiting the lowest rate of violations. Ernest W. Burgess, "Factors Making for Success or Failure on Parole" in *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Springfield: Department of Public Welfare, 1928), 223. For the final list of factors, see Andrew Bruce, Ernest W. Burgess, and Albert J. Harno, "Summary of the Findings and of the Recommendations," in *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Springfield: Department of Public Welfare, 1928), 265-266.

release procedures by way of the predictive factors related to potential parolees' criminal histories, institutional records, socioeconomic status, and psychiatric examination results.<sup>411</sup>

This chapter argues that these predictors marked men of color and poverty-stricken prisoners in the 1930s as poor parole risks—leading to the supposedly objective actuarial ratings that kept these men incarcerated. Negative classifications for factors related to a potential parolee's family and community life, including "parental status," "type of neighborhood," "resident or transient" when arrested, and "previous work record" were correlated with life experiences, residential areas, and employment records characteristic of economically disadvantaged Illinoisians, recent immigrants, and African Americans. Homes "broken" by parental separation, desertion, death, or the long-term confinement of one parent to a prison or an asylum were more common in poor white immigrant and African American communities in the early twentieth century. While sociologists like Burgess viewed the prevalence of single motherhood among impoverished southern European immigrants as a temporary condition that would be resolved during the Americanization process, they were less generous with African American single mothers. Perceived structural problems in black families were instead considered pathological to the African American community, just as crime and vice were deemed endemic to black neighborhoods.<sup>412</sup>

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<sup>411</sup> As a refresher, the factors are as follows: "parental status, including broken homes;" "type of criminal;" "type of neighborhood;" "resident or transient in community when arrested;" "statement of trial judge and prosecuting attorney;" "nature and length of sentence imposed;" "previous criminal record of prisoner;" "previous work record;" "punishment record in the institution;" "mental age according to psychiatric examination;" "personality type according to psychiatric examination;" and "psychiatric prognosis."

<sup>412</sup> Many black Americans, including influential reformers and writers of conduct literature like Josie Briggs Hall, thought the same. As Michele Mitchell argues, "the concept of racial destiny" that took hold in the decades following Emancipation allowed black men and women to "judge—often harshly—what they perceived as weaknesses, failings, and pathologies" in other African American people. Michele Mitchell, *Righteous Propagation: African Americans and the Politics of Racial Destiny after Reconstruction* (Chapel Hill: University of North Carolina Press, 2004), 15, 109-112.

Burgess and the Illinois sociologist-actuaries who developed prognostic assessments of each potential parolee uncritically accepted the vice that flourished on Chicago's South Side, without considering political and social processes that pushed criminal activity into black neighborhoods and the white racial violence that kept African Americans from moving to other neighborhoods. As detailed in Chapter 3, Burgess believed that competition for space in the city rather than state actions and white violence required the segregation of urban space—its division into natural areas “functional for sorting out populations and diverse social activities and processes.”<sup>413</sup> City government and law enforcement are missing in Burgess's work. Like most Americans, the sociologist took segregation for granted and deemed it a settled feature of U.S. communities. When assimilation occurred, it would happen slowly and naturally, and was not a process that could be pushed for. In the meantime, Burgess and his successors considered Chicago's Bronzeville part of the “criminal underworld,” a neighborhood classification with an unfavorable rating. Areas home to impoverished whites, especially those in Burgess's “zones in transition” also received unfavorable scores.

The seasonal labor cycle characteristic of even the most supposedly incorruptible rural Illinois farming communities proved detrimental for young, cash-strapped white man caught up in the criminal justice system. As the country and the city became ever more connected thanks to the Good Roads movement of the interwar years, young men and women traveled to urban areas seeking steady employment and the excitement of the metropolis. By the 1920s, transient, seasonal labor was the norm for many working-class men, who moved from farms to city industries in cycles dictated by harvest time. Though the urbanization of American life in the first part of the twentieth century came with some nostalgia for country people in American

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<sup>413</sup> James B. McKee, *Sociology and the Race Problem: The Failure of a Perspective* (Urbana: University of Illinois Press, 1993), 129.

culture, positioning them as culturally backward but morally superior to city dwellers, this view did not extend to these transient young men who traveled between rural and urban communities.<sup>414</sup> Transience, too, added a negative point to a prospective parolee's prognostic score. Seasonal workers and former transients also earned another negative mark due to irregular work histories. The Burgess method considered the consistency of a man's work record—his ability to hold a steady job prior to imprisonment—an important predictor of his ability to succeed on parole. If a potential parolee could get and keep a job long-term, he was more likely to fulfill the duties of citizenship upon release. Consideration of this factor harmed working-class men used to changing jobs with the seasons and periods of employment that coincided with the cycles of farm life. It also further penalized men of color, who were far more likely to work intermittently in unskilled, low-paying, and dangerous industrial positions with high turnover rates.

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<sup>414</sup> William Cronon broke down the rural-urban binary in *Nature's Metropolis*, showing that Chicago and its hinterland were created reciprocally. Similarly, cultural boundaries between city life and country life during the late nineteenth and early twentieth centuries were permeable. The last section of *Nature's Metropolis* traces the transport of manufactured goods from Chicago to the suburban and rural areas that surrounded it. This is a capitalistic view of cultural exchange—the book does not spend much time exploring the human relationships undergirding these developments. But there are people behind this capitalistic cultural exchange, and views of rural life drove reform efforts like investment in rural schools and health services. Soon, rural modernization agendas would include the introduction of new consumer technology that provided unprecedented links between farm families and the rest of the world. The affordable, often battery-operated radio—more than the car, telephone, or even electricity—transformed rural life, “bringing formerly isolated people into the cultural and economic American mainstream.” Still, the supposed binary between city and country life, and nostalgia for the latter as American urbanized, persisted as a cultural touchstone that can be seen in silent film from the 1920s and 1930s. The 1920 census data revealed that for the first time in American history, most of its population lived in urban areas. At the same time, the movies became a central component of this new, more urbanized American culture. Historian Hal S. Barron argues that silent film played a central role in “establishing new understandings of rural society for a modern, urban nation.” While these movies leaned into the nostalgia of city residents who had been raised in rural areas, they also served to distance agrarian life from the core of American culture, positioning rural America squarely in an idealized past. The “innocence and purity” of rural and small-town American life contrasted with the “corruptions and discontents” of urban living. William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W.W. Norton & Company, 1991). On the proliferation of radio sets in rural areas, see Steve Craig, “‘The More They Listen, the More They Buy’: Radio and the Modernizing of Rural America, 1930-1939,” *Agricultural History* 80, No. 1 (Winter 2006), 3. On visions of the rural-urban divide in silent film, see Hal S. Barron, “Rural America on the Silent Screen,” *Agricultural History* 80, No. 4 (Autumn 2006), 384-385, 387.



The outsized impact of law enforcement on those without political power and funds to access legal services further manipulated the parole board's "objective model," marking poor, black, and Mexican prisoners as potentially dangerous parole risks. Many African Americans who grew up in Chicago during the 1910s and 1920s had criminal records dating back to childhood due to Juvenile Court policies that funneled dependent and delinquent black youth alike to detention facilities. Most of Chicago's child welfare institutions were segregated and refused to offer services for African American children, so Juvenile Court judges sent orphaned, abandoned, and abused children of color to detention facilities where they might at least be sheltered and fed.<sup>415</sup> This practice both exposed vulnerable youth to further trauma and effectively fabricated criminal records for dependent black children. These records subsequently worked against black youth within Burgess's scoring method, thus further compounding the racism people of color encountered at every level of the criminal justice system in Illinois, from street policing to prison discipline.

Illinois courts were often hostile spaces for black and brown adults, too, leading to disproportionate conviction rates that sent African Americans and Latinos to jail and prison more frequently than whites for the same offense. Many judges believed that African Americans and immigrants of color were innately criminal, and likely used these views to justify the negative assessments of prisoners of color furnished prior to their parole board hearings. Once behind bars, men of color were at the mercy of a white, under-educated guard force eager to exact punishment for the slightest rule infraction.

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<sup>415</sup> See especially Marcia Chatelain, *South Side Girls: Growing Up in the Great Migration* (Durham: Duke University Press, 2015) and Tera Eva Agyepong, *The Criminalization of Black Children: Race, Gender, and Delinquency in Chicago's Juvenile Justice System* (Chapel Hill: The University of North Carolina Press, 2018).

The final grouping of categories addressed in this chapter were, like disciplinary records, also generated during institutionalization. Here, Burgess turned to the aspect of the offender that he considered most promising for further research into the causes of crime. As an indication of his trust in the mind sciences, Burgess placed great weight on psychiatric criteria, allotting the psychiatric assessments culled from prison mental health officers' records three predictive factors within his actuarial system: mental age, personality type, and psychiatric prognosis. The tests used and diagnoses given by ISP psychiatrists relied on assessments that pathologized perceived racial and class differences. Intelligence testing, for instance, developed alongside and in support of racist science and the intelligence-measurement system used by the ISP reflected this background. The Army Alpha group test, while designed to measure innate mental ability, actually served as a better indication of the educational attainment and cultural background of the test subject. Even Burgess's contemporaries questioned the utility of the Army Alpha for prognostic purposes, especially as researchers were beginning to doubt the link between low mental ability and criminality. Though the sociologist was well aware of this scholarship, he persisted in including Army Alpha test scores within his predictive model, a move that proved advantageous for whites with access to quality education in Chicago's segregated public-school system.

Psychiatrists also leveraged personality testing to explain perceived differences and inequities between the lower class, black, and brown populations and middling-class whites. Historians of the mind sciences indicate that mental health professionals in the 1920s and 1930s took "the white psyche as the norm."<sup>416</sup> These psychiatric professionals considered the black mind different from the "normal" white mind, a common assessment which likely caused ISP's

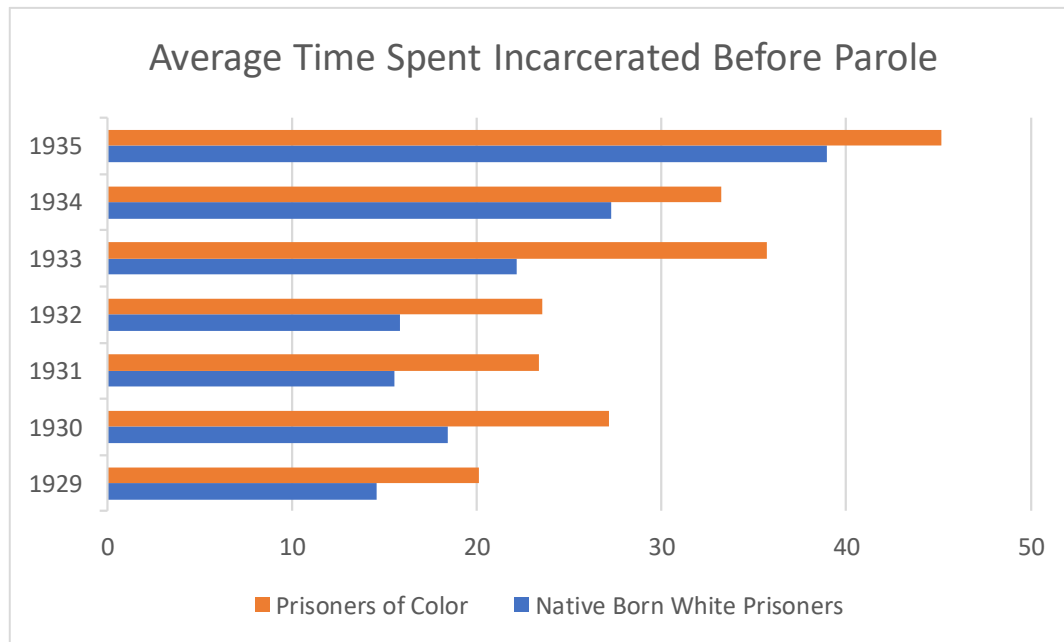
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<sup>416</sup> Martin Summers, *Madness in the City of Magnificent Intentions: A History of Race and Mental Illness in the Nation's Capital* (New York: Oxford University Press, 2019), 4-5.

mental health officers to search for signs of mental inferiority and psychological maladjustment in each black man admitted to an Illinois prison. The adoption of this “maladjustment model” of mental health, moreover, stressed economic success as a benchmark for gauging the “adjustment” of an individual to society. While only one of the three personality classifications at the disposal of the ISP’s mental health officers received a negative mark in Burgess’s predictive method, the overall psychiatric prognosis of each man who came before the parole board depended on a combination of his personality classification and mental rating. “Egocentricity” might be the personality rating of a comparatively large proportion of violators, but the “socially inadequate” and “emotionally unstable” men unable to keep jobs, support their families, and fulfill the responsibilities of citizenship were just as likely to accrue unfavorable prognoses from the institutional psychiatrist.

The Illinois parole board favored white, well-connected, and comparatively affluent prisoners from its inception. So, did the Burgess system actually change parole in Illinois? Or did the quantification process merely dress up the proceedings with a gloss of objectivity, making the system palatable to Illinois citizens in the wake of the parole mill scandal? The statistics presented by the ISP’s sociologist-actuaries certainly indicated at least one change in the parole system: the prognostic scores worked and their influence on parole decision-making reduced recidivism during the parole period. Our story is thus one of success for Ernest W. Burgess, the driving force behind the quantification of parole decision-making. But the prisoners favored by prognostic scores were not dissimilar to those released by earlier parole boards. For all of the scientific trappings of Burgess’s prognostic scoring system, the sociologist reproduced older assumptions about who was capable of reform and who was not, who was worthy of parole and

who was not. The actuarial prediction method only served to imbue categories based on race and economic status with greater power, cementing them within the release process in ways that had immediate effects on already marginalized prisoners in Illinois, as shown in **Figure 11.**<sup>417</sup> The many actuarial models used in policing and punishing later in the twentieth century stemmed



*Figure 11 This graph is made up of data from twenty-two prison register books from Joliet and Menard. The vertical axis of the chart indicates the average length of time (in months, rounded to the nearest month) prisoners paroled in the years listed on the horizontal axis spent incarcerated at Joliet or Menard before release. The length of time does not include the time each individual spent in jail awaiting trial. The chart represents over 3,000 individual cases—more than 2,000 native-born white prisoners and over 1,000 prisoners of color*

<sup>417</sup> Statistics compiled by corrections institutions in Illinois usually do not include information about the length of time inmates serve on their sentences, indeterminate or otherwise. For this chart, I compiled information only pertaining to persons released on parole before 1933. For 1933 and the following years, I also included persons who served out their maximum sentences (minus good time) because the board declined to release them. Persons convicted of the following crimes are included in this data pool: burglary, attempted burglary, larceny, attempted larceny, grand larceny, larceny of automobile, larceny of horse, robbery, armed robbery, attempted robbery, receiving or transporting stolen property, assault with intent to rape, assault with intent to kill, assault with intent to rob, manslaughter, abduction (sometimes listed as kidnaping), arson, attempted arson, indecent liberties, bigamy, crimes against nature, crimes against children, incest, forgery, confidence game, malicious mischief, malicious destruction of property, embezzlement, perjury, conspiracy, receiving deposits after insolvent, uttering fictitious check, and child abandonment. All of these crimes were assigned indeterminate sentences. The register books containing the cases used to compile this chart are as follows: Joliet Registers of Prisoners committed from Dec. 1914-Nov. 1915, Nov. 1915-Dec. 1916, Feb. 1918-July 1919, July 1919-Dec. 1919, Aug. 1920-Sept. 1921, Oct. 1923-Oct. 1924, June 1925-April 1926, April 1929-Sept. 1929, Oct. 1929-April 1930, April 1930-Oct. 1930, Oct. 1930-April 1931, April 1931-Dec. 1931, Dec. 1931-June 1932, June 1932-Feb. 1933, Feb. 1933-July 1933, July 1933-Nov. 1933; Menard Registers of Prisoners committed from Jan. 1922-June 1924, June 1924-April 1926, April 1926-March 1928, March 1928-April 1930, and April 1930-Jan. 1932.

from Burgess's initial identification of these categories, and the quantitative methods that granted them objectivity.

### **From the Broken Home to Hobohemia: Parental Status, Neighborhood, Mobility, and Work**

Incarcerated men interviewed by prison personnel during their first few days inside found themselves subjected to invasive lines of questioning. During intake, men were fingerprinted, measured, shorn, and dressed in often ill-fitting prison garb, stripped of their physical identity by prison staff and their fellow inmates. This traumatic orientation to prison life stripped the self away, but it also sought to understand that self. Appointments with prison psychiatrists and sociologists required prisoners to open their minds and pasts to strangers. Questions the mental health officer and sociologist posed concerned each prisoner's life history: from childhood to the start date of his present prison term. The details revealed during these interviews, which were subsequently confirmed by a staff of clerks who wrote to prisoners' friends and family, ended up in the man's jacket file for later evaluation by those tallying parole prediction scores. These life histories and letters would join psychiatric assessments, intelligence test scores, statements from prosecutors and judges, disciplinary records, and other documents that determined prisoners' scores for each factor included in the Burgess system. I start, like an Illinois sociologist-actuary might while assembling a life history, with factors related to prisoners' personal and family lives.

#### *Single Mothers, "Broken" Homes, and the Sociological Debate over Parental Status*

We begin with that most crucial element of life history: the childhood home. Though Burgess found the Pontiac, Menard, and Joliet records "very unsatisfactory upon the relations of the prisoner to his parents," he still sorted men in each institution into one of two categories

related to parental status and home life, the “broken home” and the “unbroken home.”<sup>418</sup> Homes could be “broken” by the death of a parent, long term confinement of a parent to an institution, divorce, desertion, or the parents’ separation during the prisoner’s childhood. Social scientists and reformers had long stressed the importance of the two-parent household, especially during the Progressive era, when men and women involved in social welfare work often voiced their concern over what they saw as the instability of the working-class family. Much of their perception of instability arose from moralistic and patriarchal concerns about the role of women in the home and related xenophobic anxieties over immigrant family dynamics and assimilability.<sup>419</sup> But while Progressive reformers and policymakers wrote working-class white immigrant families’ structural problems off as part of their probationary period as “Americans in Progress,” they understood African American families’ struggles as pathological.

By the 1920s, psychiatrists and noted sociologists in Burgess’s professional orbit made the connection between household composition and criminality more explicitly, treating family relationships as the foundation for mental and personality formation.<sup>420</sup> As one sociologist articulated in 1926, “broken homes,” especially single-parent homes, often meant improper

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<sup>418</sup> *Workings*, 223.

<sup>419</sup> Martha May, “The ‘Problem of Duty’: Family Desertion in the Progressive Era,” *Social Service Review* 62:1 (March 1988), 42. Also see Muhammad, *The Condemnation of Blackness*, 102. Many progressive reformers also acted on these concerns, inserting themselves into working-class family life. See especially Nancy Woloch, *A Class By Herself: Protective Laws for Women Workers, 1890s-1920s* (Princeton: Princeton University Press, 2015), chapter 1 and Eileen Boris, “Reconstructing the ‘Family’: Women, Progressive Reform, and the Problem of Social Control,” in Noralee Frankel and Nancy S. Dye eds., *Gender, Class, Race, and Reform in the Progressive Era* (Lexington: The University Press of Kentucky, 1991), 73-86. Some of these assumptions would continue into the 1930s. For example, the Wickersham Commission’s Report included information from sociological studies suggesting that children of immigrant parents were more likely to exhibit delinquent behavior than children of native-born American parents. National Commission on Law Observance and Enforcement, *Report on the Causes of Crime Vol. I* (Washington: United States Government Printing Office, 1931), 68-69. For a long-range view of how the American family came to be seen as both the source of and the solution for social problems, see Elaine Tyler May, “‘Family Values’: The Uses and Abuses of American Family History,” *Revue Française D’études Américaines*, no. 97 (2003), 7-22.

<sup>420</sup> Stephen Garton, “Criminal Minds: Psychiatry, Psychopathology, and the Government of Criminality,” in Paul Knepper and Anja Johansen eds., *The Oxford Handbook of The History of Crime and Criminal Justice* (New York: Oxford University Press, 2016), 408. Examples of work in this vein include:

parental supervision and resulted in both delinquency in youth and “misconduct in adult life.”<sup>421</sup>

Social scientists propped up the cultural construction of the nuclear family with a male breadwinner, purporting to show scientifically that well-adjusted adults emerged from these family structures exclusively. Single motherhood in this period, especially when the child was born out of wedlock, was pathologized, criminalized, and racialized.<sup>422</sup> Associating single motherhood with juvenile delinquency and adult criminality was an example of what historian Khalil Gibran Muhammad has called “writing crime into race” and class.<sup>423</sup> Increasingly, when white sociologists imagined “broken homes” they imagined black and poor homes, correlating parental status with racial and cultural deficit rather than the racism and economic inequality contributing to desertion, divorce, separation, incarceration, and widowhood.<sup>424</sup> The assumption that the African American family functions at a “deficit” employed a “European American middle-class set of values and ways of being as the norm.”<sup>425</sup>

Still, some challenged the salience of home status to criminality and recidivism. Shortly after Burgess published his findings in *Workings*, his fellow Chicago sociologists cast doubt on the statistical correlation of “broken homes” with childhood delinquency. Clifford Shaw and Henry D. McKay of the Institute for Juvenile Research argued that sociologists’ underestimation

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<sup>421</sup> Viva B. Boothe, “Criminality and the Home,” *The Annals of the American Academy of Political and Social Science* 125 (May 1926), 195.

<sup>422</sup> As historian Linda Gordon’s research has shown, poor single mothers are disproportionately associated with child neglect in early twentieth century charity and social work records. Linda Gordon, “Single Mothers and Child Neglect, 1880-1920,” *American Quarterly* 37, no. 2 (Summer 1985), 173-192. On the institutionalization of single African American mothers, see Cheryl D. Hicks, “‘In Danger of Becoming Morally Depraved’: Single Black Women, Working-Class Black Families, and New York State’s Wayward Minor Laws, 1917-1928,” *University of Pennsylvania Law Review* 151, no. 6 (June 2003), 2077-2121.

<sup>423</sup> Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge: Harvard University Press, 2010).

<sup>424</sup> Note that around 1920, widows were the largest group of mother-only families in the population. Jeanne L. Goodwin, *Gender and the Politics of Welfare Reform: Mothers’ Pensions in Chicago, 1911-1929* (Chicago: The University of Chicago Press, 1997), 161.

<sup>425</sup> Linwood G. Vereen, “African American Family Structure: A Review of the Literature,” *The Family Journal* 15, no. 3 (July 2007), 282. Vereen argues that “economic structure plays a more important role than family structure in the lives of African American families” (283).

of the commonality of broken homes among nondelinquent boys likely contributed to the linkage of home status with delinquency. The two researchers studied the prevalence of broken homes among boys in the general population to compare to the incidence of broken homes among delinquent children. After conducting interviews with 7,278 boys in twenty-nine Chicago public schools, the researchers were surprised by the “absence of any significant relationship between rates of broken homes and rates of delinquents.” Indeed, Shaw and McKay’s findings showed that home status was much more closely correlated with nationality and race, as African American boys were significantly likelier to come from “broken homes” than boys from other racial and ethnic groups. These numbers were probably more indicative of the economic status of the boys’ families rather than the racial or ethnic makeup of the household. Interview transcripts also revealed that many boys from homes classified as “broken” grew up in households they considered “harmonious functional unit[s].”<sup>426</sup>

Despite Shaw and McKay’s findings, “home status” continued to feature among factors included in revisions of the Burgess method well into the 1950s.<sup>427</sup> While rates of delinquency are not the same as rates of recidivism, the lack of a correlation between home status and criminal behavior in the prediction of delinquency nevertheless might have raised some red flags for sociologist-actuaries. But the relation of home status to criminal behavior ultimately remained unquestioned by Illinois sociologist-actuaries as they implemented the Burgess system,

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<sup>426</sup> Clifford R. Shaw and Henry D. McKay, “Family Situations and Juvenile Delinquency,” in National Commission on Law Observance and Enforcement, *Report on the Causes of Crime Vol. 2* (Washington: United States Government Printing Office, 1931), quotations in order, 278, 269, 263.

<sup>427</sup> See chapter 5 for further exploration of revisions made to the Burgess method. Lloyd Ohlin, *Selection for Parole: A Manual of Parole Prediction* (New York: Russell Sage Foundation, 1951): 125-126. For archival evidence of the use of “home status” in Illinois prediction schemas, see Sociologist-Actuary, “Definitions to be Used in the Study of New Cases,” 1948, in Ernest W. Burgess Papers, Box 17, Folder 3, SCRC-UCL; Robert E. Clark, Sociologist-Actuary, “Some Notes on the Method of Parole Prediction,” undated, in Ernest W. Burgess Papers, Box 6, Folder 4, SCRC-UCL; and Sam Daykin, Sociologist and Actuary for the Division of Pardons and Paroles at Joliet, “The Illinois Parole Prediction System,” June 4, 1938, Ernest W. Burgess Papers, Box 35, Folder 7, SCRC-UCL.



perhaps because it was linked to race and economic standing throughout the twentieth century. Thus, the longevity of the home status factor would justify marks against many economically disadvantaged prisoners and men of color in Illinois for decades to come. Households classified as “broken” in sociological literature were usually poor.<sup>428</sup> Families headed by single mothers often lived in poverty—forty-four percent in historian Linda Gordon’s study of hundreds of child welfare agency case records, as compared with twenty-six percent of two-parent households.<sup>429</sup> Moreover, African American children were statistically more likely than white children to live in single-parent households.<sup>430</sup> However, Gordon argues that if historians found a way to control for socioeconomic status, the percentage of poor white and black children living with single parents might not look so different.<sup>431</sup> By 1930, African American children in Chicago were only slightly more likely than white children to grow up in households headed by a single mother.<sup>432</sup>

*Disorganized Neighborhoods: Community and Criminality in the Windy City and Beyond*

When assembling his list of salient factors, Burgess also displayed considerable interest in adult home status and its correlation with recidivism, including two factors related to a potential parolee’s residence (or lack thereof). His conclusions about the effects of

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<sup>428</sup> Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare* (New York: The Free Press, 1994), 6.

<sup>429</sup> Specifically, 13.6% of black children lived with their single mothers in 1920 compared to less than one percent of white children living with single mothers in the United States. Gordon, “Single Mothers,” 180. Gordon warns, however, that her sample may be slightly skewed since she only looks at cases taken on by welfare agencies and those turning to welfare agencies—or being policed by them—were more likely to be poor in the first place. There were very few single-father families represented in Gordon’s sample (comprising only 3.6 percent of the records she examined). It’s worth noting, too, that fewer than one percent of children in 1920 lived in single-father households. See Susan Brower and Steven Ruggles, “Living arrangements of children, by age and race: 1850-1990,” Table Ae128-190 in *Historical Statistics of the United States, Earliest Times to the Present: Millennial Edition*, eds. Susan B. Carter et al. (New York: Cambridge University Press, 2006): <http://dx.doi.org/10.1017/ISBN-9780511132971.Ae1-51310.1017/ISBN-9780511132971.Ae1-513>.

<sup>430</sup> Brower and Ruggles, “Living arrangements.”

<sup>431</sup> See Hylan Lewis as quoted in William Eric Perkins, “Matriarchy, Malcolm X, and Masculinity: A Historical Essay,” *Counterpoints* 107, *Black Sons to Mothers: Compliments, Critiques, and Challenges for Cultural Workers in Education* (2000), 18.

<sup>432</sup> Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (New York: Basic Books, 1985), 186.

“neighborhood status” on criminal behavior drew heavily on his earlier work in urban sociology. In *The City* (1925), Burgess and Park laid out one of the most important urban models of the 20<sup>th</sup> century: a theory of neighborhood and industrial development based on Chicago’s growth. The two men conceived of the metropolis as an ecological entity, arguing that “forces at work within the urban community... [brought] about the orderly and typical grouping of its population and institutions” and that these groupings were hierarchical.<sup>433</sup> Burgess divided Chicago into a series of concentric zones, each with different land values and different usages. Land values in the Loop, or central business district, were highest. Grand hotels, skyscrapers, museums, municipal buildings, theaters, and department stores studded the city center. Burgess found that much of the property surrounding the business district was owned by speculators, who served as landlords as they waited for the business district to expand. But these “zones of transition” were deemed unstable, classified as slums due to the prevalence of poverty, crime, vice, rooming houses, and industry within residential districts. A hodgepodge of working-class migrants inhabited Chicago’s zone in transition, residing in dilapidated housing close to their industrial jobs. Burgess argued that community institutions crumbled and social control broke down due to the blending of different cultures and the constant mobility within transition zones.<sup>434</sup>

As follows from this assessment, Burgess and others who viewed the city from an ecological perspective stressed the effects of a neighborhood’s characteristics on its residents. Sociologist Mitchell Duneier explains that “those characteristics were thought to exert effects

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<sup>433</sup> Robert E. Park, “The City: Suggestions for the Investigation of Human Behavior in the Urban Environment,” in Robert E. Park, Ernest W. Burgess, and Roderick D. McKenzie, *The City* (Chicago: The University of Chicago Press, 1925), 2.

<sup>434</sup> Ernest W. Burgess, “Growth of the City: An Introduction to a Research Project,” in Donald J. Bogue, ed., *The Basic Writings of Ernest W. Burgess* (Chicago: Community and Family Study Center, University of Chicago), 96-103. Reprinted from Robert E. Park, Ernest W. Burgess, and Roderick D. McKenzie, *The City* (Chicago: The University of Chicago Press, 1925).

independent of the characteristics of the people who moved into them.”<sup>435</sup> Burgess student and Chicago School criminologist Clifford Shaw bolstered this theory with his 1929 monograph, *Delinquency Areas*, suggesting that disorganized neighborhoods generated school truants, juvenile delinquents, and adult offenders. Shaw drew heavily on Burgess’s model, especially on the older sociologist’s conceptualization of “zones in transition.” As businesses and manufacturing interests moved into these zones, Shaw argued, the community “ceases to function effectively as a means of social control” and collective resistance “to delinquent and criminal behavior is low.”<sup>436</sup> Over time, criminal actions in these areas might even meet with approval from members of the community. Shaw’s interpretation of the data collected for *Delinquency Areas* indicated that Burgess might expect prisoners from working-class city neighborhoods to dominate Illinois prisons, but Burgess needed his own data to correlate offenders’ previous residences with recidivism.

As he sorted through the institutional jacket files, the sociologist quickly realized the difficulty of placing each prisoner’s former residence within a neighborhood category. Burgess wrote in the final study that “the material in the records was not so satisfactory for determining the type of neighborhood where a man lived at the time of his arrest.”<sup>437</sup> This meant that he could only identify eight broad neighborhood types, which he applied to prisoners throughout the state: “criminal underworld,” “Hobohemia,” “rooming house district,” apartment district, immigrant

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<sup>435</sup> Mitchell Duneier, *The Ghetto: The Invention of a Place, The History of an Idea* (New York: Farrar, Straus and Giroux, 2016), 36.

<sup>436</sup> Clifford R. Shaw, *Delinquency Areas: A Study of the Geographic Distribution of School Truants, Juvenile Delinquents, and Adult Offenders in Chicago* (Chicago: The University of Chicago Press, 1929), 205. Burgess also read many drafts of Shaw’s manuscript prior to publication. See “Preface,” x.

<sup>437</sup> Burgess, “Factors,” in *Workings*, 226. He stressed the importance of including residential addresses in casework files in an article published the same year as the parole study, arguing that “the point is that the status, economic and social, of the family always had a relationship to the area in which it is resident,” and that the family life cultivated by the neighborhood in turn influenced the individual. The article identified eight neighborhood types for Chicago, and theorized that these were applicable to any major city. See Burgess, “What Social Case Records Should Contain,” 530.

areas, “residential districts,” and rural areas.<sup>438</sup> He notes at the outset that “those whose homes had been in the open country” violated parole at a significantly lower rate than persons hailing from towns and cities.<sup>439</sup> Either way, violation rates for men with former addresses in areas Burgess classified as “criminal underworlds,” “Hobohemias,” and “rooming house districts” were highest, and the sociologist assigned these unfavorable ratings within his forecasting charts.

The terms “Hobohemia,” “criminal underworld,” and “rooming house district” would have held specific meaning for Burgess and his colleagues. They were areas within the “zone of transition” defined by Burgess and Park in *The City*. University of Chicago graduate students made extensive studies of “Hobohemia” and the “rooming house districts” on the Gold Coast in the 1920s. In 1922, the Executive Committee of the Chicago Council of Social Agencies’ Committee on Homeless Men commissioned University of Chicago graduate student Nels Anderson to produce a study of the hobo based on immersive research conducted in the city. To complete the study, Anderson lived Chicago’s “Hobohemia” for one year, collecting dozens of life histories from homeless men and recording his observations. Anderson posited that each major American city in the early 1920s had a district defined by its homeless population and the institutions that arose to serve transient workers, its “Hobohemia.” According to Anderson, the institutions that defined these districts included “cheap hotels, lodging-houses, flops, eating-joints, outfitting shops, employment agencies, missions, radical bookstores, welfare agencies, [and other] economic and political institutions.”<sup>440</sup> As hobos moved in, crime flourished—

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<sup>438</sup> These are compiled from Burgess’s report of his study in *Workings* and from copies of the expectancy tables he devised for his research. See *Workings*, 226, and “Expectancy Chart of Observance of Parole Based on a Study of 1,000 Cases at Illinois State Penitentiary,” in Ernest Watson Burgess Papers, Box 34, Folder 7, SCRC-UCL.

<sup>439</sup> *Workings*, 225-226. It is probable that violation rates were lower in rural areas because of a smaller police presence and the inability of parole officers to manage far flung parolees.

<sup>440</sup> Nels Anderson, *The Hobo: The Sociology of the Homeless Man, A Study Prepared for the Chicago Council of Social Agencies Under the Direction of the Committee on Homeless Men* (Chicago: University of Chicago Press, 1923), 14. Anderson himself identified as a seasonal worker, or “hobo,” and worked on construction crews and in ranching before beginning his studies at the University of Chicago. As a participant-observer, however, he could

gamblers, drug traffickers, and bootleggers profited from the business of migratory men looking for a momentary thrill or a way to feed their addiction. Anderson identified four distinct areas that comprised Chicago's Hobohemia: West Madison Street, the area of State Street to the south of the Loop, Clark Street below Chicago Avenue, and Grant Park.<sup>441</sup>

Anderson's fellow Chicago school sociologist Harvey W. Zorbaugh ensured that the boundaries of the "rooming-house district" were similarly well-defined. Like Anderson, Zorbaugh quickly mapped Chicago's characteristics onto other major cities, believing that each urban area contained "rooming house districts" similar to the one he described on the lower North Side of Chicago.<sup>442</sup> In *The Gold Coast and the Slum*, which Burgess almost certainly

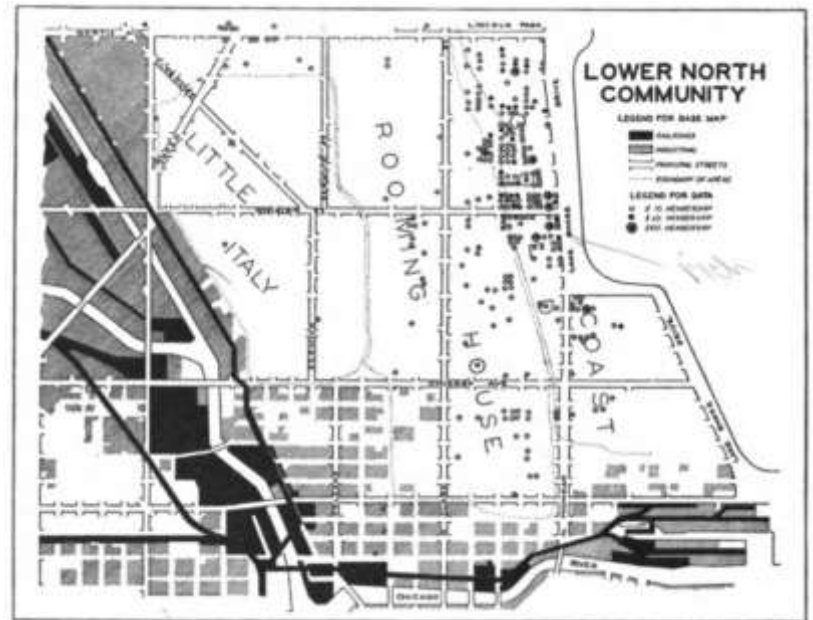


Figure 12 Zorbaugh's map of the Lower North Side from *The Gold Coast and the Slum*. The rooming house district is sandwiched between Little Italy and the Gold Coast.

shift between class identities—a striking power differential between Anderson and the men he wrote about. For further discussion of participant-observer work among seasonal laborers, see Frank Tobias Higbie, "Indispensable Outcasts: Seasonal Laborers and Community in the Upper Midwest, 1880-1930" (PhD diss., University of Illinois Urbana-Champaign, 2000), Chapter 3.

<sup>441</sup> Anderson wrote that these four areas served distinct purposes for the homeless men who lived, worked, and socialized there. Homeless men Anderson interviewed referred to the vicinity of West Madison street as the "slave market" because of the large number of employment agencies located there. Transient men went there to look for work, beg for change, or to sleep in Jefferson Park. "Hobos" flush with cash and looking for entertainment flocked to State Street south of the Loop for the burlesque shows. In the winter, the cheap hotels in this area became refuges for men who saved enough summer wages to afford shelter from the cold. Homeless men bedded down in nearby railyards during the warmer months. Anderson described Clark Street and Washington Square, called "Bughouse Square," as a haven for the "hobo intellectual." Here, one could find the "the thinker[s], the dreamer[s], and the chronic agitator[s]" among the homeless population. Finally, Grant Park was a place of relaxation for transients. Men could go there to sleep, read, relax, and talk. In the area facing the lake shore, "hobos" took advantage of the water access to fish, bathe, and wash their clothes. See *ibid.*, 4-11.

<sup>442</sup> R.D. McKenzie, Untitled (review of *The Gold Coast and the Slum* by Harvey W. Zorbaugh and *The Ghetto* by Louis Wirth), *American Journal of Sociology* 35, no. 3 (November 1929), 486. Also see Harvey Warren Zorbaugh, *The Gold Coast and the Slum: A Sociological Study of Chicago's Near North Side* (Chicago: University of Chicago Press, 1929), 69 fn.

read before its publication in 1929, Zorbaugh characterized the center of the Forty-Second Ward as an area of rooming houses.<sup>443</sup> He wrote that behind the “ostentatious apartments, hotels, and homes” along Lake Shore Drive on the Gold Coast lay “an area of streets that have a painful sameness, with their old, soot-begrimed stone houses... their shabby air of respectability.” Formerly a wealthy neighborhood akin to the Gold Coast, the rooming-house district found on the map in Figure 3 housed mostly “young and unmarried men and women.”<sup>444</sup> Here, one could find clerks, accountants, stenographers, and secretaries who walked to their jobs in the Loop. None of these young, white-collar workers stayed in the area for long—indeed, rooming house districts were characterized by the “constant comings and goings of... [their] inhabitants.”<sup>445</sup> Rooming-houses were anonymous, lonely places where workers could come and go as they pleased, do as they wished, and remain undisturbed. Zorbaugh found no community there, merely a collection of individuals kept company by their unfulfilled dreams and whomever they chose as a companion for the night. Because of the “social disorganization,” he argued, “behavior [became] impulsive rather than social.”<sup>446</sup> Life became about the welfare of the individual rather than the community, which Burgess and others likely saw as a condition that enabled criminal behavior. Zorbaugh identified three rooming house districts in Chicago: the one adjacent to the Gold Coast and two others on the South and West sides of the city that marked boundary lines between slum neighborhoods and business districts. Though Zorbaugh insisted these districts were common in urban areas, it is unclear exactly how Burgess and the Illinois sociologist-actuaries might have applied this category to other cities within the state.

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<sup>443</sup> Ernest W. Burgess, “Urban Areas,” in *Chicago: An Experiment in Social Science Research* eds. T.V. Smith and Leonard D. White (Chicago: The University of Chicago Press, 1929), 134

<sup>444</sup> Zorbaugh, *Gold Coast*, 69-70.

<sup>445</sup> *Ibid*, 71.

<sup>446</sup> *Ibid*, 86.

“Criminal underworlds” are slightly more difficult to define geographically. Sociologists and others studying crime commonly used the term “underworld” to describe the diffuse community of persons involved in criminal activity. The term “criminal underworld,” however, likely referred to the vice districts and areas where underground economies were most visible in Chicago and other cities. In the early 20<sup>th</sup> century, police actions and municipal rezoning “specifically channeled vice to, and contained it in, [Chicago’s] black neighborhoods” with the aim of keeping white residential areas and business districts free of sex work, gambling, and the drug trade.<sup>447</sup> The Progressive Era campaign to clean up the Levee—a diverse neighborhood home to both the city’s Chinatown and its underground economy— temporarily shut down dozens of brothels and saloons. These brick-and-mortar institutions and the more diffuse, but still booming drug trade that surrounded them soon resurfaced in the center of the Black Metropolis, just a few blocks south of their original home.<sup>448</sup> Unsurprisingly, then, sociologist Walter Cade Reckless’s map of the distribution of the Committee of Fifteen’s cases from 1910-1929 indicates high levels of vice activity within black neighborhoods. Over 20% of the Committee’s cases involving “evidence of commercialized prostitution” were located in the Douglas tract on Chicago’s South Side.<sup>449</sup> Dealers peddling cocaine and opiates also moved into black

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<sup>447</sup> Simon Balto, *Occupied Territory: Policing Black Chicago from Red Summer to Black Power* (Chapel Hill: The University of North Carolina Press, 2019), 24, 40-42. Also see Cynthia M. Blair, *I’ve Got to Make My Livin’: Black Women’s Sex Work in Turn-of-the-Century Chicago* (Chicago: University of Chicago Press, 2010), Chapter 4, and Will Cooley, “Jim Crow Organized Crime: Black Chicago’s Underground Economy in the Twentieth Century,” in *Building the Black Metropolis: African American Entrepreneurship in Chicago*, eds. Robert Weems Jr. and Jason Chambers (Champaign: University of Illinois Press, 2017), 148, 152-153. Cooley also points out that this iteration of municipal racism was not unique to Chicago.

<sup>448</sup> Joseph Spillane, “The Making of an Underground Market: Drug Selling in Chicago, 1900-1940,” *Journal of Social History* 32, no. 1 (Autumn 1998), 37. By 1920, the center of this underground economy shifted from the Levee area between 18<sup>th</sup> and 22<sup>nd</sup> streets down to the neighborhood between 31<sup>st</sup> and 35<sup>th</sup> streets, at the heart of the Black Metropolis.

<sup>449</sup> Walter Cade Reckless, *Vice in Chicago* (Chicago: The University of Chicago Press, 1933), 166 (Map 4). The Chicago Committee of Fifteen formed in 1908 as a private entity that sought to eradicate pandering in the city, but by 1911 it began to target sex workers, observing the venues associated with commercialized sex work and watching for illegal activity. Though the Committee initially argued that city vice should be segregated, members eventually advocated for the abolition of vice districts. The case studies Cade perused are now held at the University of

Metropolis's entertainment district, rubbing shoulders with people of "every class and race" in dance halls, cafés, and "black and tan" cabarets on the Stroll.<sup>450</sup>

Still, the lights that shone down on the Stroll, making "midnight... like day," illuminated the blossoming "marketplace intellectual life" that characterized Chicago's New Negro experience in the 1920s.<sup>451</sup> The New Negro Renaissance, though most frequently associated with Harlem-based African American artists and intellectuals, involved a rise in racial assertiveness that reverberated in diasporic communities around the globe and offered a profound challenge to white supremacy. As historian Davarian Baldwin argues, this new race consciousness manifested in heterogenous ways, shaped by the class position, location, gender identity, and sexuality of the men and women who expressed it. Chicago's New Negro experience emerged from the "interface between urban migrant cultural practices and the mass consumer marketplace" in leisure spaces resulting in a variety of cultural formations and political expressions as African Americans sought to realize their freedom dreams.<sup>452</sup> Though Chicago's South Side was a "key nodal site in the making of black modernity"—a hub of exciting intellectual and cultural change—life in the so-called "Black Belt" was often stressful or even traumatic for many African Americans.<sup>453</sup> The cozy and mutually beneficial relationship between vice lords and city

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Chicago and include the addresses that the observers visited and notations on the levels of vice found at the location. See "Guide to the Chicago Committee of Fifteen Records 1909-1927," The University of Chicago Special Collections Research Center Finding Aids, last modified 2007,

<https://www.lib.uchicago.edu/e/src/findingaids/view.php?eadid=ICU.SPCL.COMMITTEEO15#idp148019848>.

<sup>450</sup> Spillane, "The Making of an Underground Market," 38. The Stroll was the name given to the stretch of State Street between 26<sup>th</sup> and 39<sup>th</sup> Streets, home to the Black Metropolis's theaters, cabarets, music clubs, restaurants, beauty parlors, and other businesses. Shane White, "Stroll, The," in *The Electronic Encyclopedia of Chicago* eds. Janice L. Reiff, Ann Durkin Keating, and James R. Grossman (Chicago: Chicago Historical Society, 2005), <http://www.encyclopedia.chicagohistory.org/pages/1212.html>.

<sup>451</sup> The first quotation is taken from Langston Hughes's description of the Stroll in Davarian L. Baldwin, *Chicago's New Negroes: Modernity, the Great Migration, and Black Urban Life* (Chapel Hill: The University of North Carolina Press, 2007), 44. The term "marketplace intellectual life" is from Baldwin, *Chicago's New Negroes*, 5.

<sup>452</sup> Ibid, 5.

<sup>453</sup> Quotation from Charles Lester, "'You Just Can't Keep the Music Unless You Move with It': The Great Migration and the Black Cultural Politics of Jazz in New Orleans and Chicago," in *Escape from New York: The New*





Figure 13 This front-page cartoon depicts a large vulture labeled 'Politics' watching over and presumably reaping the benefits of vice on the South Side. "A 'Wise' Bird Watches South Side Vice," *The Chicago Whip*, November 11, 1922, 1.

law enforcement allowed bars, drug markets, brothels, and gambling venues to spread through the neighborhood, even in black residential areas. And African Americans who wanted to avoid the visible drug use, drinking, sex work, gambling, and violence that came with these businesses could not simply move out of the South Side.<sup>454</sup>

As a result of municipal efforts to concentrate Chicago's illicit amusements within the parameters of the black South Side—regardless of white ownership and patronage of vice offerings in the area—Reckless found that the percentage of black Americans living in vice tracts was much greater than the percentage of blacks residing in non-vice tracts by 1930.<sup>455</sup>

Municipal racism not only pushed vice into African American neighborhoods, but also allowed city officials to turn a blind eye as buildings in these areas fell into disrepair.<sup>456</sup> Chicago School sociologists chose to ignore the role of city authorities, believing instead that these poor

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*Negro Renaissance Beyond Harlem* eds. Davarian L. Baldwin and Minkah Makalani (Minneapolis: University of Minnesota Press, 2013), 317.

<sup>454</sup> Balto, *Occupied Territory*, 39.

<sup>455</sup> Reckless, *Vice in Chicago*, 193. Reckless argued that the concentration of vice resorts in African American neighborhoods was due to "the natural segregation of poor, colored immigrants in the sections of least desirability in the city," public suppression of vice in other areas, and "the disorganized condition of the poor colored neighborhoods [that] enabled white vice resorts to hide from law enforcement."

<sup>456</sup> Racist housing restriction policies caused severe overcrowding in black neighborhoods, and by the late 1930s there were ninety thousand people per square mile in African American areas, compared to twenty thousand whites per square mile. Conditions worsened and rents increased as the availability of apartments and houses in segregated areas failed to keep up with black migration. Rashad Shabazz, *Spatializing Blackness: Architectures of Confinement and Black Masculinity in Chicago* (Champaign: University of Illinois Press, 2015), 41, Chapter 2.

neighborhood conditions allowed criminality to flourish, thus shoring up the classification of the Black Belt area as part of Chicago's "criminal underworld."<sup>457</sup> Segregation also confined other nonwhite groups to the dilapidated housing stock on the South Side. When Mexicans immigrated to Chicago for work in factories, stockyards, and on the railroads after World War I, those who could not rely on company housing found apartments in black neighborhoods or moved to makeshift housing near railroad tracks.<sup>458</sup>

The concentration of criminal activity in black neighborhoods intensified during Prohibition, as mob bosses set up illicit breweries, distilleries, and bars in places where citizens "lacked social [and political] privilege," where any protests would go unheard. For most city politicians, the powerful white saloonkeepers, brothel owners, bootleggers, and other big players in the vice industry were the only constituents who mattered on the South Side. They were the ones who delivered votes and cash, especially to Chicago's notoriously corrupt mayor, William "Big Bill" Thompson, who ordered the police to "lay off" vice resorts in the Black Metropolis.<sup>459</sup> After decades of permitting sex work and the drug trade to flourish on the South Side, police were used to collecting bribes and looking the other way. And they were only too happy to do so as the organized crime so profitable for white politicians and gangsters alike took root in African American communities. Due to the rampant political corruption and the racist restrictive covenants that pushed both black people and Chicago's illicit marketplaces south of the Loop, Burgess almost certainly placed black neighborhoods into the "criminal underworld" category. By 1937, Pontiac used scores from 1-3 for each factor, with three marking the groups with the

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<sup>457</sup> Shaw, *Delinquency Areas*, 203. For descriptions of environmental racism and dangerous housing conditions on the South Side, see especially St. Clair Drake and Horace R. Cayton, *Black Metropolis: A Study of Negro Life in a Northern City* (New York: Harcourt, Brace and Company, 1945), chapters 5 and 8.

<sup>458</sup> Michael Innis-Jimenez, *Steel Barrio: The Great Mexican Migration to South Chicago, 1915-1940* (New York: New York University Press, 2013), 59-61.

<sup>459</sup> Balto, *Occupied Territory*, 39.

highest risk of recidivism in each category. Pontiac's sociologist-actuary marked residency in "Negro areas" a three, and assumed that all African Americans in urban communities lived in "Negro areas" without reference to any other neighborhood descriptors that might apply and lower their risk score.<sup>460</sup>

Men and boys living in the "criminal underworlds," "Hobohemias," and "rooming house districts" in Chicago and other urban areas in Illinois were poor, nonwhite, or both. Men of color possessed neither the means nor opportunity to move out of neighborhoods Burgess and other Chicago school sociologists associated with crime. With little understanding of racist restrictive covenants, environmental racism, and the white supremacist violence that helped uphold the color line in the city and its suburbs, Burgess failed to acknowledge that African Americans lived in the city's most dilapidated housing in the heart of its vice district due to forces outside of their control. Even if he did begin to comprehend the many evils of segregation, he made no provision within his predictive model to remedy the ill effect of neighborhood association on the prognostic scores of men of color.

*Tramping in the Twenties, Bumming in the Depression: Criminalizing Homeless and Transient Workers in Illinois*

Poverty pushed Chicagoans into the city's "criminal underworlds," "Hobohemias," and "rooming-house districts," to be sure, but the low wages and unreliable employment that characterized many working-class occupations also motivated men throughout the state to leave their homes for better prospects elsewhere. Seasonal laborers "appeared marginal to both agriculture and industry," but performed work that was crucial to the market for much of the

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<sup>460</sup> These might have included "residential area," with a score of 1. Thomas G. Hutton, "Factors as Applied in Pontiac Sociological Reports" in Ernest Watson Burgess Papers, Box 9, Folder 3, SCRC-UCL.

early 20<sup>th</sup> century.<sup>461</sup> They moved between cities and rural areas as they harvested the state's crops, built its railroads, and cut its lumber. The poverty and extreme mobility that characterized these workers' lives contributed to living arrangements and conditions that contrasted with cultural understandings of male gender roles, and permanent residents of Illinois communities viewed transient workers with suspicion. Chicago's Progressive Era reformers perceived and portrayed transient workers as problematic in their independence and autonomy, attempting to bring them under the control of city authorities and charities by founding municipal lodging houses and philanthropic hotels.<sup>462</sup>

Similarly, social scientists surveying homelessness in the 1920s and 1930s believed that transient workers threatened the social order. If Burgess engaged in extensive discussions of transience with Robert Park, he would have conceptualized the "hobo" primarily as a man without purpose who moved from place to place with no rational objective. In *The City*, Park argued that the hobo's "impulse to escape from the routine of ordinary life" and constant mobility was akin to an addiction.<sup>463</sup> The hobo wandered for the sake of wandering, "without a cause and without a country," breaking community ties with impunity.<sup>464</sup> Other contemporaries

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<sup>461</sup> Higbie, "Indispensable Outcasts," 6. Higbie notes elsewhere that census data indicates that the majority of unskilled laborers in agriculture returned to their families at the end of harvest season. Still, the number of seasonal workers and those someone like Anderson would have identified as hoboes was significant. See Frank Tobias Higbie, "Between Romance and Degradation: Navigating the Meanings of Vagrancy in North America, 1870-1940," in *Cast Out: Vagrancy and Homelessness in Global and Historical Perspective* eds. A.L. Beier and Paul Ocobock (Athens: Ohio University Press, 2008), 250-269. Embrace of the hobo existence purely for its pleasures and freedoms among transient workers was rarer, and was a privilege enjoyed almost exclusively by young, white men who spoke English and were hardy enough to withstand the many hardships of homeless life. Historian Todd DePastino argues that the hobo world appealed to men because it represented a rejection of materialism and domesticity, offered the opportunity for close (sometimes sexual) relationships with other men, and gave them a strong collective identity. Many homeless transient workers in Illinois spent idle periods following employment on farms, construction sites, and in other industries socializing with fellow hoboes in Chicago. See Todd Allan DePastino, "From Hobohemia to Skid Row: Homelessness and American Culture, 1870-1950" (PhD diss., Yale University, 1997), Chapter 5.

<sup>462</sup> DePastino, "From Hobohemia to Skid Row," 218-219, 224.

<sup>463</sup> Robert E. Park, "The Mind of the Hobo: Reflections Upon the Relation between Mentality and Locomotion," in *The City* eds. Robert E. Park, Ernest W. Burgess, and Roderick D. McKenzie (Chicago: The University of Chicago Press, 1925), 158.

<sup>464</sup> Robert E. Park as quoted in DePastino, "From Hobohemia to Skid Row," 182.

were more precise with their language and classification, counting the hobo as just one member of the larger vagrant class, which also included the “tramp” and the “bum.”<sup>465</sup> The line between the sometimes romanticized hobo with his particular honor code and relationship to work and the dissolute and idle “bum” were never quite as clear for authorities as they were for itinerant men. Though he may have used more complex language in his sociological studies of the city, for parole classification Burgess probably would have slotted any man without a permanent address into the transient class—including the “bums” who typically stayed in one place.

Historians note that the population of white American transient workers began to dwindle by the 1920s, but the idea of vagrancy as a form of deviance remained. This idea was pervasive, even as many young men followed the seasonal demands of the labor market for years before they settled down. These were working-class men who “shared the same demographic characteristics and life goals as other [more stationary] working-class and farming youths.”<sup>466</sup> Seasonal workers were in their 20s and 30s, mostly white, and literate, but the social stigmas of mobility and low standards of living marked them as problematic outsiders. Their very transience

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<sup>465</sup> These contemporaries included Ben Reitman, Nels Anderson, and labor advocate, attorney, and former president of Chicago’s Hobo College Nicholas Klein. Klein defined the hobo as “one who travels in search of work,” the tramp as “one who travels but does not work,” and the bum as “a man who stays in one place and does not work.” Nicholas Klein as quoted in Anderson, *The Hobo*, 88. Geographer Tim Cresswell indicates that “texts often alternate between the words ‘tramp’ and ‘hobo’ for no apparent reason.” Tim Cresswell, “Embodiment, Power and the Politics of Mobility: The Case of Female Tramps and Hobos,” *Transactions of the Institute of British Geographers*, 24, no. 2 (1999), 180.

<sup>466</sup> Higbie, “Indispensable Outcasts,” 140. In the first half of the twentieth century, African Americans were slightly rarer in homeless populations than they are in the present day despite near universal poverty. In part, this was because America’s long history of slavery made black homelessness a crime. Though many formerly enslaved people took to the road during Reconstruction, they were much more likely to be arrested for vagrancy than mobile whites, had difficulty finding paid work and accessing services for transients, and could not rely on the casual hospitality of strangers on the road. However, transient populations in the 1920s were still quite diverse. In the winter of 1922, black people made up one-tenth of Chicago’s homeless population—a statistic that becomes even more significant when we consider that African Americans on the road were likelier to take additional precautions to hide their transient status for fear of arrest. See Kim Hopper and Norweeta G. Milburn, “Homelessness among African Americans: A Historical and Contemporary Perspective” in *Homelessness in America* ed. Jim Baumohl (Phoenix: The Oryx Press, 1996), 123-125.

“conjured up a lack of attachment and thus irresponsibility and disorder,” a freedom of movement that actively threatened the “moral life and stability” of communities.<sup>467</sup>

A last surge of working-class mass migration overwhelmed the country during the Great Depression. Though traveling for seasonal work was less common in the 1930s, the destabilized economy and cyclical layoffs that characterized many industries ensured that itinerant workers remained in Hobohemia’s Main Stem. Indeed, social agencies and shelters likely struggled to keep up with the ever-increasing population of unemployed transients and destitute families passing through the city.<sup>468</sup> These Depression Era migrant workers moved from place to place in search of a steady job rather than at the whims of the seasonal labor market. Due to total economic collapse, the demographics of the transient working population shifted, skewing slightly older. Black homelessness also increased in the 1930s. African Americans made up about 8 percent of the population of major northern cities in 1931, but comprised 15 to 27 percent of homeless persons staying in municipal shelters that year.<sup>469</sup> Despite these differences, poverty and marginalization united the white male seasonal workers of the 1920s with the sporadically unemployed, often unhoused, diverse transient population of the Depression Era.<sup>470</sup>

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<sup>467</sup> Todd McCallum, “Review: The Tramp is Back,” *Labour/ Le Travail* Vol. 56 (Fall, 2005), 241.

<sup>468</sup> Kenneth L. Kusmer, *Down & out, on the Road: The Homeless in American History* (New York: Oxford University Press, 2002), 194.

<sup>469</sup> *Ibid.*, 208.

<sup>470</sup> City officials and law enforcement still viewed these so-called “vagrants” as probable deviants, and marginal workers sometimes found themselves jailed for lacking money, a job, or a permanent address. However, Chicago’s vagrancy laws were vague and sporadically applied: for instance, the Municipal Court processed 220 vagrancy cases in 1922 and 1,300 in 1927. As Joel E. Black points out, however, this sharp increase in vagrancy prosecutions could have been because the flexible vagrancy law was sometimes used to address offenses besides itinerancy. Joel E. Black, “Idlers, Outliers and Dependents: The Free Labor Order in Industrial Chicago, 1870-1930” (PhD diss., University of Florida, 2010), 251. Though individual cases of destitution sparked public sympathy during the Depression, the influx of homeless people to urban areas did not. The better off attempted to confine homeless shelters to skid-row areas like Chicago’s Hobohemia, which they continued to associate with “slum conditions, cheap saloons, and prostitution,” in turn marginalizing permanent and temporary residents of those neighborhoods. Kusmer, *Down & out*, 210.

Poverty dictated Burgess's marking system as he assigned an "unfavorable" prognosis to formerly transient prisoners.

*Freedom Dreams Shattered: Race, Work, and Wages in the Great Migration*

Former transients caught up in the criminal justice system probably chalked up an additional "unfavorable" rating in Burgess's "previous work record" category due to the cyclical nature of seasonal labor and industrial layoffs for working-class men. Just as a man's labor within the penitentiary held redemptive and rehabilitative value in the eyes of prison officials, Burgess believed that a regular employment record prior to incarceration could identify parole successes.<sup>471</sup> It was the character of employment that mattered most to the sociologist rather than the fact of employment. A "casual work" record, which encompassed the "intermittent labor of unskilled workers," or no work record at all counted against potential parolees.<sup>472</sup> Throughout the 1920s and 1930s, men of color were far more likely to work intermittently in unskilled positions than white working-class men. Even before the stock market crash of 1929 left over 40% of African American men unemployed, many black people faced underemployment or unemployment in Chicago.<sup>473</sup>

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<sup>471</sup> Prison labor also functioned as part of the disciplinary regime within institutions, as an exhausted prisoner often had no choice but to be obedient and docile. For more on the perceived significance of prison labor to rehabilitation, see Ethan Blue, *Doing Time in the Depression: Everyday Life in Texas and California Prisons* (New York: New York University Press, 2012), especially chapter 2. For the centrality of "the prison labor problem" to the history of American punishment, see Rebecca McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008).

<sup>472</sup> *Workings*, 229.

<sup>473</sup> The 41.7% figure (as compared to 27.8% for white workers) applies to January of 1931 and includes black men and boys defined as gainful workers and aged 10 and older in the following major northern metropolitan areas: Manhattan, Philadelphia, Pittsburgh, Cleveland, Chicago, Detroit, and St. Louis. See Table 1 in William A. Sundstrom, "Last Hired, First Fired? Unemployment and Urban Black Workers During the Great Depression," *The Journal of Economic History* 52, no. 2 (June 1992), 417. Sundstrom's figures probably do not account for the number of African Americans who were seasonal laborers and could be subjected to lengthy layoff periods during certain parts of the year. For more on black employment during the 1920s, see Gareth Cnaan, "'Part of the Loaf': Economic Conditions of Chicago's African-American Working Class during the 1920's," *Journal of Social History* 35 No. 1 (Autumn 2001). The packing industry remains an exception to this characterization. Many black packinghouse workers, mainly those on the killing floor, moved into skilled jobs. By 1930, more than one third of the semi-skilled and skilled laborers in Chicago's packinghouses were African Americans. Rick Halpern, "The Iron Fist and the Velvet Glove: Welfare Capitalism in Chicago's Packinghouses, 1921-1933," *Journal of American*

The Urban League's annual reports for the 1920s indicate that black civic organizations grew increasingly concerned about discrimination in employment and unemployment among African American men in the years leading up to Burgess's parole research. The Chicago Urban League, formed in 1916 as an affiliate of the National Urban League, established partnerships with businesses and charitable organizations in order to find jobs, housing, and coordinate social services for black migrants to Chicago.<sup>474</sup> The organization also conducted research on industrial conditions and barriers to employment for African Americans in the city. Mid-decade, League members felt optimistic about their work, noting in their 1926 annual report that "the year just closed here has been one of real achievement for our industrial department," especially in the wake of the 1924 recession. The report further observed that the city's industries were pulling out of the "depression," with some black-owned businesses even providing additional positions for young African Americans.<sup>475</sup> The League's subsequent annual reports for the decade were not so optimistic. Migrants from the South continued to flock to the Black Metropolis, hoping to realize their freedom dreams, but job openings for African Americans did not keep pace with increased demand. In 1927, the League's Department of Industrial Relations wrote of the "serious unemployment situation." By 1928, the situation was "critical." That year's annual report pointed to poor labor conditions and high unemployment rates for African Americans in

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*Studies* 26, no. 2 (August, 1992), 166, 168. Also see Christopher Robert Reed, *The Rise of Chicago's Black Metropolis, 1920-1929* (Urbana: University of Illinois Press, 2011), 124.

<sup>474</sup> Though the League made strides for black Chicagoans as it attempted to break the job ceiling in industrial work, it also espoused a more conservative uplift politics in its services for African American migrants. Much of the League's work depended on the cooperation of white, middle class businesses and philanthropists. Robert Park was a founding member and pushed the League to conduct research and compile "a body of authentic fact," which it could then provide to other, more "primitive" black social service agencies to improve their work. Robert Park, as quoted in Preston Howard Smith, II, "The Limitations of Racial Democracy: The Politics of the Chicago Urban League, 1916-1940" (PhD diss., University of Massachusetts, 1990), 52. Also see Preston H. Smith, II, "Urban League," in *The Electronic Encyclopedia of Chicago* eds. Janice L. Reiff, Ann Durkin Keating, and James R. Grossman (Chicago: Chicago Historical Society, 2005), <http://www.encyclopedia.chicagohistory.org/pages/1294.html>.

<sup>475</sup> Chicago Urban League, *Tenth Annual Report of the Chicago Urban League for the Fiscal Year Ended October 31<sup>st</sup>, 1926* (Chicago: Chicago Urban League, 1926), 11.



the city, positing that the dearth of jobs for black workers “was greatly aggravated by the large number of unemployed among various groups” which led to “the dismissal of many colored workers in favor of other racial groups.”<sup>476</sup>

*The Chicago Defender* also noted the dearth of employment opportunities for African Americans as the 1920s waned, writing of the visibility of discriminatory hiring practices in the city and encouraging readers to take action. When discontented rumblings emanated from the city’s streetcar workers in 1927, the paper encouraged black Chicagoans to stand at the ready for their chance at a job should white streetcar workers strike for higher wages.<sup>477</sup> In 1928, the newspaper bemoaned the fact that public utilities jobs were still closed to black men and women, writing that “the only bar to getting employment in these public places is that one’s skin must be white.”<sup>478</sup> African Americans could not work in streetcars, nor could they expect job opportunities on elevated trains, or in the telephone service. These public utilities were not alone in their refusal to employ black workers. Most labor unions, too, “[shut] the doors of employment to able workers,” excluding black Americans either explicitly or in practice.<sup>479</sup> Even the white-dominated unions that admitted black workers prevented African Americans from

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<sup>476</sup> Chicago Urban League, *Eleventh Annual Report of the Chicago Urban League for the Fiscal Year Ended October 31<sup>st</sup>, 1927* (Chicago: Chicago Urban League, 1927), 7. Chicago Urban League, *Inter Racial Good Will Through Social Service: Twelfth Annual Report of the Chicago Urban League for the Fiscal Year Ended October 21, 1928*, (Chicago: Chicago Urban League, 1928), 7. By the 1920s, Mexican immigrants to South Chicago gained a foothold in the steel industry and competed with black workers for unskilled positions in steel mills. Mexicans soon outnumbered African Americans in the mills. Moreover, as historian Michael Innis-Jiminez notes, mill managers implemented quotas “to contain the growth of the African American workforce.” Innis-Jiminez, *Steel Barrio*, 77.

<sup>477</sup> “Union and Lines Seeking a Car Peace Basis,” *Chicago Daily Tribune*, July 15, 1927, 10; “Pay Arbitration for Street Car Men will Govern ‘L’ Workers,” *Chicago Daily Tribune*, July 21, 1927, 3; and “To Ask Mr. Insull for Jobs as Street Car Men,” *The Chicago Defender*, July 16, 1927, 2.

<sup>478</sup> “Taxpayers Resent Bar to Public Service Jobs,” *The Chicago Defender*, May 19, 1928, 3. For discrimination in promotions see “How to Fight Crime,” *The Chicago Defender*, January 28, 1928, A2; “To Open War on U.S. Job Discrimination,” *The Chicago Defender*, June 1, 1929, 10; and Chicago Urban League, “Tenth Annual Report,” 14.

<sup>479</sup> “Work Essential to Economic Independence,” *The Chicago Defender*, November 3, 1928, 7. Historian Alex Lichtenstein writes that there were only 110,000 African American union members in 1930, a very small proportion of black laborers at that time. Alex Lichtenstein, “‘The Hope for White and Black’? Race, Labour, and the State in South Africa and the United States, 1924-1956,” *Journal of Southern African Studies* 30, no. 1 (March 2004), 139.

climbing the ranks to managerial and skilled positions in the workplace. For instance, though the biracial Steelworkers Union fought for improved conditions in the low-ranking jobs generally reserved for black laborers, it did not disrupt the racist job structures imposed by white employers. As Title VII litigation against the union later showed, the Steelworkers Union ensured that only white laborers entered higher-paying, safer jobs, while African Americans remained in the unskilled, low-paying, and dangerous positions with higher turnover rates.<sup>480</sup> These jobs became fewer and farther between as the labor market shrank, and employed black Americans struggled to hang onto their positions as they watched employers lay off growing numbers of their fellow workers. The Urban League warned in 1927 that seniority rules supported by industrial unions generally forced “Negroes out of work first and caus[ed] more suffering among them than among other groups.” As more and more African Americans found themselves out of a job, the *Defender* pointed to mass layoffs and urged citizens to pay attention: “Something is happening in Chicago and it should no longer go unnoticed.”<sup>481</sup>

Like African Americans, Mexican immigrants and Mexican Americans mostly worked at seasonal jobs, received low wages, and were among the first “to suffer a cut in wages, or to be laid off when curtailment in industry takes place.”<sup>482</sup> Winters in Chicago were particularly

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<sup>480</sup> Labor activist and scholar Herbert Hill further argued that this “casual informal discrimination in employment became more rigid and enforceable as a result of codification in labor-management contracts” negotiated by industrial unions like the Steelworkers. Herbert Hill, “The Problem of Race in American Labor History,” *Reviews in American History* 24, no. 2 (June, 1996), 200-201. Also see Robin D.G. Kelley as quoted in *ibid*, 195-196.

<sup>481</sup> “Urban League Reports on Industry for February,” 1927, in Record Group 183 Bureau of Employment Security, Correspondence of Karl F. Phillips, ProQuest History Vault Collection: *Black Freedom Struggle in the 20<sup>th</sup> Century*, <https://congressional.proquest.com/histvault?q=001337-016-0001>. *Chicago Defender* as quoted in St. Clair Drake and Horace R. Cayton, *Black Metropolis: A Study of Negro Life in a Northern City* (New York: Harcourt, Brace and Company, 1945), 83.

<sup>482</sup> Paul Livingstone Warnshuis, “Crime and Criminal Justice Among the Mexicans of Illinois,” *National Commission on Law Observance and Enforcement Report on Crime and the Foreign Born* (Washington: Government Printing Office, 1931), 276. The largest population of *Mexicanos* in the state, about 17,000 by 1930, lived in Chicago. But others made smaller cities and communities their home. About 3,000 Mexican immigrants and Mexican Americans lived in Chicago suburbs, 1,000 in Joliet, and 1,000-2,000 more in East St. Louis and surrounding settlements. Still more lived in Rock Island, Moline, and East Moline. These areas represented the most significant settlements of Mexicans and Mexican Americans in the state. *Ibid*, 269.

difficult for recent arrivals from the beet fields of Minnesota and Michigan. These families came to Chicago at the end of the harvest season instead of traveling thousands of miles back to Mexico, but often found it extremely difficult to find work to sustain them once the weather turned cold. Those who did find employment in the 1920s worked on the railroads, in factories and steel mills, and at hotels in the Loop. According to a paper based on research conducted by the Immigrants' Protective League and the University of Chicago's School of Social Service Administration, these jobs were relatively unstable and almost always cut during industry downturns.<sup>483</sup> The dearth of employment could be dangerous for recent arrivals. New immigrant families could not obtain government aid and found themselves forced to rely on more established Mexican residents for assistance, including food, blankets, clothing, and shelter. The problem worsened later in the 1920s, when steel mills found themselves with a surplus of Mexican workers seeking jobs.<sup>484</sup> Indeed, winters later in the decade were so precarious for these families and the unattached Mexican men who also flocked to the city for jobs that the Mexican Consul placed notices in Spanish language papers "warning the people not to come to Chicago in the winter [of 1928] expecting to find work."<sup>485</sup>

As shown, men of color in the 1920s faced discriminatory hiring and promotion practices, seasonal job cycles, and instability in employment. African American workers who did find employment in the 1920s usually did not advance in their careers because discriminatory employers refused to promote people of color and resisted hiring skilled black workers. Industries too often placed black and Mexican laborers in temporary jobs, which they would lose as seasonal demand for a product or service disappeared. Low wages, too, motivated black

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<sup>483</sup> Anita Edgar Jones, "Mexican Colonies in Chicago," *Social Service Review* 2, No. 4 (December 1928), 589.

<sup>484</sup> Francisco Arturo Rosales, "Mexican Immigration to the Urban Midwest during the 1920s" (PhD diss., Indiana University, 1978), 160. Inland Steel was the largest employer of Mexican labor in America during the 1920s.

<sup>485</sup> *Ibid*, 589.

laborers in particular to move from job to job more frequently than their European-American counterparts, marking their work histories as “casual” within Burgess’s rating system.<sup>486</sup> By 1933, Illinois sociologist-actuaries would examine prisoners’ employment histories as part of their actuarial prediction method, paying careful attention to each man’s ability to hold a steady job or remain continually employed in adulthood. Sociologist-actuaries likely held men convicted and sent to prison in the 1930s accountable for their employment status in the 1920s, perhaps more so than their work history following the stock market crash, when even jobs for white men became scarce.

### **Policing and Punishing in the Prairie State: Criminal Records, Court Reports, and Prison Discipline**

*“Would Believe One White Man to 9 of Ours”: Discriminatory Policing and Sentencing*<sup>487</sup>

As historian Simon Balto argues, punishment in Chicago “fell on the shoulders of the less powerful,” including immigrant groups, Catholics, African Americans, and others at the margins of society. Though black neighborhoods bore the brunt of heavy law enforcement, Balto’s work indicates that poor people in general were more “vulnerable to police harassment and violence than were people of greater means.”<sup>488</sup> Still, Chicago police earned a reputation for discriminatory and often violent treatment of people of color in particular. As previously explored, the efforts of police and politicians had moved white vice districts in the urban north from immigrant communities to African American neighborhoods well before the 1930s, and police presence in those areas increased accordingly.<sup>489</sup> Police arrested black citizens with

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<sup>486</sup> For more on the seasonal nature of many job opportunities for black workers and high turnover rates for African Americans in industry, see Canaan, ““Part of the Loaf,”” 154-155.

<sup>487</sup> Quotation from ““Liars,’ Judge Ehler’s Comment on Race: Would Believe One White Man to 9 of Ours,”” *Chicago Defender*, February 9, 1924, 5.

<sup>488</sup> Simon Balto, *Occupied Territory: Policing Black Chicago from Red Summer to Black Power* (Chapel Hill: University of North Carolina Press, 2019), 43.

<sup>489</sup> Muhammad, *Condemnation of Blackness*.

impunity, having no reason to fear that they might have the right friends or the capital necessary to protest unwarranted detention.

Crime statistics produced from this environment both reflected and fueled the over-policing of black communities as well as the perception of African Americans as a naturally deviant population. Black social scientists like Charles S. Johnson and Kelly Miller produced pathbreaking scholarship in response to these numbers, questioning their validity and reliability. Though their work showed that racial interpretations were largely built around sloppily assembled data sets that reflected discrimination in the criminal justice system, it did little to change the national conversation. Instead, white social scientists and policymakers persisted in advancing culturally determinist views of African Americans and in increasing the punitive role of law enforcement in black communities and other communities of color. Prisoners of color were thus more likely than white prisoners to be identified as occasional or habitual offenders within the “criminal type” category and to have a record that worked against their chances of parole upon completion of their minimum sentence.

During the first wave of the Great Migration, which increased the city’s black population from 14,271 to 109,458 souls from 1890 to 1920, Chicagoans blamed spikes in violent crime on the “rowdies, gun-carrying bullies and other worthless characters” recently arrived from the South.<sup>490</sup> The largely white police force shared this view, and enjoyed enormous power of discretion to “arrest any person found under circumstances which would warrant a reasonable

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<sup>490</sup> Describing Southern migrants in the *Chicago Defender*, August 22, 1914, as quoted in Jeffrey Adler, *First in Violence, Deepest in Dirt: Homicide in Chicago, 1875-1920* (Cambridge: Harvard University Press, 2006), 121. Statistic from same. For discussion of the debate regarding Southern black migrants’ criminality, particularly the views of Chicago’s black middle class, see Nora C. Krinitsky, “The Politics of Crime Control: Race, Policing, and Reform in Twentieth-Century Chicago” (PhD diss., University of Michigan, 2017), 58-61.

man in believing that such a person had committed or is about to commit a crime.”<sup>491</sup> Public and police perception of a connection between race and crime was thus reflected in Chicago arrest statistics and only grew as the twentieth century progressed. In 1920, when African Americans comprised about four percent of the city’s population, black arrests made up 11.3 percent of total arrests made by Chicago police. The percentage continued to rise over the course of the decade, and by 1930, when black Chicagoans made up around seven percent of the population, black arrests had risen to 25.34 percent of the total.<sup>492</sup> These statistics and others like them helped forge the link between race and crime and justify continuing surveillance of African Americans.

The disparity in arrest rates was obvious to black citizens and discussed in *The Defender* and other African American newspapers. In 1925, the *Defender* lamented the abuse of police discretion, commenting that officers often arrested men “merely because their skin is dark or their necktie loud.” The same article later invoked the specter of the Klan and suggested that police tactics were similar to those of the white terrorist group: “Law-abiding citizens are tired of being humiliated and insulted by the same vague ‘disorderly conduct’ charges and ‘fugitive warrants’ that were used in the Ku Klux Klan days to drag Negroes back into the South.”<sup>493</sup> Claude Barnett’s Associated Negro Press also picked up on the pattern of police violence and discriminatory arrests. In 1931, the news service sent out a story on a police “drive to ‘clean-up the [South Side] district.’” Police searched South Siders’ cars without warrants, broke into homes during the night, assaulted women, and arrested prominent African American community

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<sup>491</sup> *The Chicago Code of 1911*, as cited in Krinitsky, “Politics of Crime Control,” 67. By 1930, African Americans comprised only about two percent of the police force, though black Chicagoans made up almost seven percent of the city’s population. Ibid, 73-74.

<sup>492</sup> Krinitsky, “Politics of Crime Control,” 76-77.

<sup>493</sup> “Roy C. Woods Flays Cops for Making False Arrests,” *The Chicago Defender*, November 28, 1925, 11. For a similar discussion in the next decade see Julius J. Adams. “Police Get Spanking: Judge Administers Verbal Thrashing for Series of Attacks on Innocent Victim,” *The Chicago Defender*, July 13, 1935, 11.

members without apparent cause. In one case, officers raided the home of a Mrs. Mae Jones, striking her on the head with a flashlight “when she resented the action of the police.”<sup>494</sup>

The 1922 publication of Charles S. Johnson’s masterful study, *The Negro in Chicago*, spurred and elevated discussions of discriminatory policing in black antiracist scholarship and activism—especially in work on the Windy City. Johnson’s research is attentive to racial disparities in the areas of arrests, offering powerful pushback to the dominant association between blackness and crime. The young sociologist showed that over 21% of persons held on criminal charges in Chicago in 1919 were African American. Moreover, according to criminal court judges, Chicago police were much more likely to arrest black suspects than white suspects because officers assumed that African Americans were more criminal in general than whites and that black men had “fewer resources and less influence with which to insure their fair treatment.”<sup>495</sup> A few years after Johnson’s study, the National Commission on Law Observance and Enforcement published a report including statistics from the Chicago Police Department indicating that the average rate of arrests on felony charges for African Americans was more than ten times that for whites during the years 1925-1929.<sup>496</sup>

Police also targeted black children, as whites became increasingly concerned about the problem of delinquency in African American neighborhoods. Simply growing up black in

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<sup>494</sup> Associated Negro Press, “Police Brutality Arouses Chicagoans to Action,” December 2, 1931, The Associated Negro Press, 1918-1967 Part 1: Associated Negro Press News Releases, 1928-1964, Series A: 1928-1944, *The Claude A. Barnett Papers*.

<sup>495</sup> *The Negro in Chicago*, 335.

<sup>496</sup> The National Commission on Law Observance and Enforcement is more commonly known by its unofficial moniker, the Wickersham Commission. Edith Abbott, *National Commission on Law Observance and Enforcement Report on Crime and the Foreign Born* (Washington: United States Government Printing Office, 1931), 114. Note that crime statistics for this period are unreliable. As Johnson reports, a lack of uniform entries in the records, methods of reporting crimes, as well as error or discrimination by police personnel all contribute to the need for caution when examining these figures. See Charles S. Johnson, *Negro Housing: Physical Aspects, Social and Economic Factors, Home Ownership, and Financing* (Washington, D.C.: The President’s Conference on Home Building and Home Ownership, 1932), 152.

Chicago virtually guaranteed a criminal record. A 1923 study of Juvenile Court records compared the outcomes for black children who appeared before the court with the end results of cases involving white defendants. Researchers for the U.S. Children's Bureau concluded that twice as many black children as white children were sent to prison, the reformatory, jail, or a workhouse.<sup>497</sup> The disproportionate incarceration of African American children occurred in part because of growing segregation in the city's private welfare institutions. Just as Chicago's African American population began to expand at the dawn of the Great Migration, most private child welfare institutions stopped serving "colored" children—though some of Chicago's Catholic children's homes continued to admit small numbers of African American children. Juvenile court authorities contended with limited options for orphaned or abandoned black girls and boys, and sometimes sent them to detention facilities meant for juvenile delinquents. As historian Marcia Chatelain notes, this policy "essentially criminaliz[ed] them for being black, without parents, and poor."<sup>498</sup> By the late 1920s, Chicago Juvenile Court officials acknowledged that they treated dependent African American children differently than white children, as "practically no institutions are to be found in the community to which this group of colored children may be admitted."<sup>499</sup> While Polish, Jewish, and Italian youth brought before the Court for minor offenses were sent to private welfare institutions for dependent children, black boys and girls were packed off to the state-run St. Charles School for Boys and the State Training

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<sup>497</sup> Muhammad, *Condemnation of Blackness*, 231.

<sup>498</sup> Chatelain, *South Side Girls*, 29. Leaders in the black community came together to open institutions for African American children, but struggled to obtain funding necessary to care for all of the city's orphaned and needy children of color.

<sup>499</sup> Chief Probation Officer Harry Hill as quoted in the 1927 annual report of the Chicago Juvenile Court. Quote obtained from David S. Tanenhaus, *Juvenile Justice in the Making* (New York: Oxford University Press, 2004), 38. Tanenhaus notes that by the late 1920s, African American boys made up about a quarter of the inmate population at St. Charles. In 1930, African Americans comprised only 7 percent of Chicago's population. Black children in state training schools were also committed to these institutions at much younger ages than white children. Historian Tera Agyepong argues that these court policies helped create "the image of the 'delinquent' child and associated delinquency with blackness." Agyepong, *The Criminalization of Black Children*, 53.



School for Girls at Geneva for the same infractions. This response towards black juvenile dependency and minor delinquency meant that when black citizens were caught up in the criminal justice system later in life they were more likely to have a record of time in jail, an industrial school, or a reformatory. Illinois sociologist-actuaries generally associated time served in any of these carceral institutions with failure on parole.<sup>500</sup>

While Chicago's cases of police repression and violence against African Americans in Illinois are particularly well-documented, discriminatory policing was clearly not confined to the Windy City. The National Association for the Advancement of Colored People's (NAACP) Decatur Branch records contain a scathing indictment of the downstate city's police force. Following white officer A.C. Travis's assault on Walter Blair, an unarmed black man in the process of surrendering to police, the Decatur Branch's Legal Redress Committee wrote that the beating was only one in a long line of police offenses against African Americans. The Committee composed a letter to Chief of Police H.J. Schepper, warning him that if these abuses continued, the Decatur Police Department would cause "widespread injustice and actual danger to the peace and welfare of our entire city." Committee members supported this admonition, nodding to their cache of records documenting many "counts of police abuse of justice and the discriminatory maintenance of public tranquility." These accounts of violence and discriminatory arrests could be weaponized against the police department "should at any time the general welfare of the citizens of Decatur demand it."<sup>501</sup>

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<sup>500</sup> "Illinois Parole System," 9, in Ernest Watson Burgess Papers. According to Menard sociologist-actuary Donald Clemmer, the downstate prison's "professional staff" classified men as recidivists "not according to previous record alone, but largely on the basis of personality make-up." A man who had never been arrested before might be considered a recidivist in the eyes of the prison's mental health officer or sociologist, but prison officials saw things differently. They adopted a more traditional definition of recidivism, one in which "every man who has served time before is a recidivist." Donald Clemmer, *The Prison Community* (New York: Holt, Rinehart, and Winston, 1958), 57.

<sup>501</sup> Letter from the Committee on Legal Redress, Decatur Branch NAACP to Mr. H.J. Schepper, Chief of Police, August 13, 1936, Part 12: Selected Branch Files Series C: The Midwest, *Papers of the NAACP*.

NAACP files also hold accounts of police brutality in smaller towns and cities, though these documents are limited—the national director of the organization’s branches complained in 1922 that even the organization’s Chicago branch had difficulty keeping good records.<sup>502</sup> Whether due to branch record-keeping and preservation strategies, or merely later archival choices, items related to police discrimination and brutality in 1920s Illinois outside of Chicago are few. Illinois cases brought to the NAACP’s attention in the next decade are better documented in the Association’s files. In 1939, for instance, African Americans living in Harvey founded a new branch of the NAACP after local police tortured a criminal suspect, leaving him “without the sight of the right eye [and] three fractured ribs.”<sup>503</sup> NAACP lawyers filed charges against the Harvey police department, and pleading letters from the Harvey Branch to national headquarters impressed the urgency of the case upon the Association’s leadership. One representative of the local branch hinted at the dangers of further abuse from the police force: “... we must not loose [sic] this case. If we do it will be much harder for our race to live here.”<sup>504</sup>

Even as the Chicago branch of the NAACP began to use local law and the court system to address discrimination and police brutality, black defendants facing criminal charges often found the courtroom a hostile environment. Johnson’s *The Negro in Chicago* revealed that black defendants were convicted in Municipal Court more frequently than white defendants.<sup>505</sup> The personal opinions of some of the Court’s judges undoubtedly played a role in negative trial outcomes for black defendants—and presumably subsequent negative assessments sent to the

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<sup>502</sup> Robert Bagnall as quoted in Krinitsky, “Politics of Crime Control,” 62.

<sup>503</sup> Rev. R.M. Hardiman National Advancement Ass’n of Colored People [sic], March 8, 1939, Part 8: Discrimination in the Criminal Justice System, 1910-1955, Series A: Legal Department and Central Office Records, 1910-1939, *Papers of the NAACP*. Another letter sent to NAACP headquarters reported that the man had two broken ribs. Harvey is a suburban community located just to the south of Chicago.

<sup>504</sup> Lou Alma Rose to NAACP, March 9, 1939, Part 8: Discrimination in the Criminal Justice System, 1910-1955, Series A: Legal Department and Central Office Records, 1910-1939, *Papers of the NAACP*.

<sup>505</sup> Johnson, *The Negro in Chicago*, 332.

parole board. Judge Theodore Ehler of the Morals Court became particularly notorious for his dismissive stance on testimony offered by African Americans, declaring in 1924 that "... Colored people lie on the slightest provocation... That is why I believe one white witness against your nine."<sup>506</sup> Morals Court Judge Arnold Heap also distinguished himself when he railed against jazz in 1922. Handing down a fine of \$200 for a Miss Julia Rector's "interpretation of modern dancing," the jurist snapped, "This case smacks of the barbarism of the jungle... [the] evil genius of this place has artfully combined the grossness of primitive sensuality with the gilded refinement of modern licentiousness."<sup>507</sup>

The stubborn and overt racism of some Municipal Court judges probably partly accounted for the comparatively high rates of conviction for African Americans tried in the city, but Chicago's justice system as a whole worked to support and sanction the often-violent repression of black residents. Criminal courts rarely indicted police for illegal acts of violence against African American citizens, which effectively "decriminalize[d] white racial violence."<sup>508</sup> black observers of the courts noted these trends. One attorney told Charles Johnson that judges and juries acted fairly only in cases involving black defendants and plaintiffs. In cases with white defendants and black plaintiffs, "the tendency is to give considerably less credibility or weight to Negro testimony." Similarly, cases with African American defendants and Anglo plaintiffs found judges and juries "giv[ing] more weight to white testimony."<sup>509</sup>

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<sup>506</sup> "Judge Ehler's Comment on Race," 5. Ehler remained in office until 1934. See "Democrats Win All Seats on City Courts," *Chicago Daily Tribune*, November 7, 1934, 1.

<sup>507</sup> "Shimmy Artist May Take Appeal from Judge's Decision," *The Chicago Whip*, February 4, 1922, 3. Heap remained in office until his death on September 27, 1930. See "Judge Censures Chair Company in Smoke Case," *Chicago Daily Tribune*, February 25, 1930, 9 and "Judge Heap's Will Filed; Estate Valued at \$80,000," *Chicago Daily Tribune*, October 9, 1930.

<sup>508</sup> Krinitsky, "Politics of Crime Control," 288.

<sup>509</sup> Johnson, *The Negro in Chicago*, 322.

Other Illinois residents of color encountered similar levels of hostility when dealing with court officials and police in Chicago and throughout the state. Mexican immigrants, especially non-English speakers, were often arrested without cause, wrongly convicted, and sentenced in a courtroom without translation services or proper representation. In a study published as part of the 1931 Wickersham Commission Report, Paul Livingstone Warnshuis interviewed 98 Mexican prisoners in Illinois, finding that a large percentage had experienced discriminatory policing tactics. Warnshuis notes in his study that many Mexican immigrants told similar stories about the police. He mentions several cases in which police detained and frisked Mexican immigrants without cause, including one in which a Mexican man “was standing on a corner conversing with a friend when a policeman stopped and searched them both.” This man happened to be carrying a jackknife at the time and was immediately arrested for “carrying concealed weapons.”<sup>510</sup> Many of the men Warnshuis talked with were jailed without knowing why they had been arrested, or with what crime they had been charged. Other interviewees recounted traumas endured at the hands of police officers, subjection to “the third degree” that left them bloodied and bruised. Sixteen men from Chicago and 3 men from other counties out of the ninety-eight total men interviewed said that they had been tortured in jail. One prisoner, identified by his initials R.R., told Warnshuis that officers “punched him ‘about a hundred times’ in the face” before sticking a gun in his mouth and threatening to kill him. “They were animals to treat me that way,” R.R. concluded, adding that he confessed to nothing.<sup>511</sup>

Latinos who suffered at the hands of jailers and police had few avenues of recourse available to them—most had trouble even accessing legal services for their defense. Fifty-four percent of prisoners Warnshuis interviewed were never able to obtain a lawyer, including one

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<sup>510</sup> Warnshuis, “Mexicans of Illinois,” 283.

<sup>511</sup> Ibid, 284.

prisoner charged with a serious felony in a downstate county. V.C. was arrested after an argument with a friend turned physical. The two exchanged blows, the friend hit V.C. in the face with an iron bar, and V.C. retaliated with his jackknife. The (presumably former) friend pressed charges and V.C. sat in county jail for fifty-two days, during which nothing was done for his defense, “so far as the defendant knows.” One day, he was sent to the “judge’s ‘office.’” There, V.C. asked for an interpreter and a lawyer, but the judge simply gave him a paper to sign. V.C. could not read it. Subjected to pressure, he signed, and was returned to his cell where he waited optimistically for an interpreter, lawyer, and a trial. Instead, “the next thing that happened was his journey to the penitentiary.”<sup>512</sup>

The Mexican consulate worked overtime to help immigrants like V.C. navigate city and state legal systems, protecting them from “the police who often accuse[d] them because of lack of interpreters and because they assign guilt without sufficient proof.”<sup>513</sup> Unfortunately, the consulate’s services were only available to Mexican defendants who entered the United States legally. Understandably bewildered upon entrance into an American courtroom, where court officials and lawyers spoke only English, many Mexican defendants without interpretive and legal services provided by the consulate undoubtedly shared the experience of Warnshuis’s interviewees. In the confusion and haste of the Municipal Court process, forty-five percent of men interviewed said they “had no opportunity to speak for themselves” during proceedings.

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<sup>512</sup> Ibid., 288. Despite this report and other similar accounts, Warnshuis concluded that “the Mexicans who were interviewed made very poor use of their time in detention in preparation for their trial” (290).

<sup>513</sup> Dr. Juan Medina, a dentist who immigrated to Chicago in 1914 and worked for the Mexican consulate there, as quoted in Innis-Jimenez, *Steel Barrio*, 100-101. The consulate was not the only organization that aided immigrants confronted with the American legal system. Warnshuis mentions the intervention of the Immigrants’ Protective League in the case of a Mexican American boy unlawfully held in jail for four days. The Immigrants’ Protective League also apparently provided court interpreters for immigrants from southern and eastern Europe, though it is unclear if these services were also available to Mexican men, women, and children. Henry B. Leonard, “The Immigrants’ Protective League of Chicago, 1908-1921,” *Journal of the Illinois State Historical Society* 66, No. 3 (Fall 1973), 281.

Only twenty men in Warnshuis's study were accompanied to court by an interpreter, and nine of these indicated that the "service was... incompetent or unsatisfactory."<sup>514</sup> Spanish-speaking immigrants were thus at the mercy of police, lawyers, and judges who could not understand a word they said, and—in some cases—immigration authorities who were quick to deport them. Warnshuis's Municipal Court statistics showed that convictions were obtained in thirty-eight percent of cases involving a Mexican defendant, a rate much higher than the conviction rate of twenty-three percent for all nationalities.<sup>515</sup>

Chicago's Chinese population faced similar challenges. Though many Chinese avoided contact with police by sheltering within an "insulated ethnic enclave that was largely self-governed," prevailing stereotypes associated Chinese with vice.<sup>516</sup> The sensationalized murder of missionary worker Elsie Sigel, allegedly committed by Chinese New Yorker Leon Ling, sent shock waves through the country in 1909. The homicide and ensuing manhunt marked Chinese men as dangerous to white women, positioned as virtuous innocents. Chicago was not immune to the collective panic, and the city's police department increased surveillance of its Chinese residents, targeting the hundreds of Chinese-owned laundries operating outside of the Chinatown area.<sup>517</sup> Historian Huping Ling contends that this panic did not result in long-term effects on the policing of Chinese in the city.<sup>518</sup> Instead, growing anti-Chinese agitation caused white landlords

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<sup>514</sup> Warnshuis, "Mexicans of Illinois," 292. In the courtroom, most of these men were disadvantaged because they could not speak or understand English. Warnshuis reported that only twenty-seven of the ninety-eight prisoners he interviewed "had sufficient command of English to understand what was going on and to speak for themselves at their trial." Only one branch of the Chicago Municipal Court regularly retained the services of a competent interpreter.

<sup>515</sup> Ibid, 302.

<sup>516</sup> Information regarding Chicago's Chinese residents proves more difficult to access in the time of COVID-19 restrictions on library borrowing. Huping Ling, *Chinese Chicago: Race, Transnational Migration, and Community Since 1870* (Palo Alto: Stanford University Press, 2012), 5.

<sup>517</sup> Mary Ting Yi Lui, *The Chinatown Trunk Mystery: Murder, Miscegenation, and Other Dangerous Encounters in Turn-of-the-Century New York City* (Princeton: Princeton University Press, 2005), 196.

<sup>518</sup> Ling, *Chinese Chicago*, 51.

to raise rents in Chinatown, driving tenants out of this small community in the Loop. Most Chinese then moved to the South Side, which placed them in close proximity to vice districts. Overpolicing in these majority-black areas, anti-Chinese racism, and the association of Chinese with gambling houses outside of police protection may have caused the disproportionate number of arrests of Chinese residents between 1914 and 1925. During these years, 1,913 Chinese Chicagoans were arrested and 484 convicted of a crime, figures which are high when we consider that the entire Chinese community in the city numbered only 2,353 in 1920.<sup>519</sup> Police pressure on Chicago's Chinese residents only increased during the 1930s. Deportation drives shifted their focus from the Italian neighborhoods targeted in the 1920s to Chinese communities, resulting in mass arrests and reflecting the focus of national immigration restriction policies.<sup>520</sup>

*"Inhuman Cruelties": Punishment and Disciplinary Records Behind Bars*

While historians conclude that policing records for this period are relatively reliable, the same cannot be said for records tracking rule violations and punishments within the Illinois prison system. According to a 1937 report, corrections officers reported rule infractions to the captain of the solitary office, who would then send for the offending prisoner and dispense punishment depending on "the gravity of the offense."<sup>521</sup> There were four types of punishments for adult male prisoners: solitary confinement from 1-21 days; solitary confinement and forfeiture of good time merit allowances; forfeiture of privileges such as attending baseball games or movies within the institution; and demotion in the merit system grade rating.<sup>522</sup> The

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<sup>519</sup> Ibid, 50. For crime statistics, see Adam McKeown, "Chinese Migrants Among Ghosts: Chicago, Peru and Hawaii in the Early Twentieth Century" (PhD diss., The University of Chicago, 1997), 330-331. These statistics exclude the year 1919, for which McKeown had no data.

<sup>520</sup> Krinitsky, "Politics of Crime Control," 241-242.

<sup>521</sup> Illinois Prison Inquiry Commission, *The Prison System in Illinois: A Report to the Governor of Illinois* (Springfield: State Printers, 1937), 166. For a complete list of rules for Joliet and Stateville, see *The Prison System in Illinois*, 166-168.

<sup>522</sup> Ibid, 77. The grades in this progressive merit system were A, B, C, D, and E. Each prisoner entered the institution at grade C, in which he neither lost nor gained good time—a sentence reduction given to prisoners. Officers granted promotions from grade to grade every three months based on good behavior and "industrial efficiency." While in

most accurate records of rule infractions and the administration of punishment most likely exist in prisoners' institutional jacket files, which track promotions and demotions in grades as well as additional punishments meted out to each man. Descriptions of rule infractions are included in punishment reports written up for each offense. Unfortunately, these records are closed to researchers under the Mental Health and Developmental Disabilities Confidentiality Act.<sup>523</sup> Rule violations and punishments were also logged in prison register books, though it is difficult to tell if this was a consistent practice. There are no institutionally-generated statistics (however questionable these might be) available for grade demotions or for tracking which prisoners were placed in solitary confinement and when. In 1922, though, Charles S. Johnson reported significant disparities in the conduct ratings of black and white prisoners, writing that "the percentage of Negro inmates whose conduct was marked 'satisfactory' was smaller in all institutions than the percentage of whites."<sup>524</sup>

There are very few accessible archival traces that can clue us into potential disparities in punishment for men incarcerated in Joliet-Stateville, Menard, and Pontiac during the 1920s and 1930s. Any documents produced during disciplinary hearings are closed to researchers.

Moreover, it would have been difficult for African American, Mexican, Asian, and white ethnic

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grade A, a prisoner gained 10 days extra good time each month; in grade B, he gained 5 days extra good time. Grades D and E were the least desirable, as a prisoner would lose 5- or 10-days good time respectively for each month he spent in the lower grades. Common rule infractions at Menard included "insolence, disobedience, talking in line and in the dining room, loafing while at work, fighting, and carrying food from the dining room." Offenses Menard officials deemed more serious included "assaulting an officer, escape and attempted escape, and homosexual practices." For instance, if a prisoner escaped while in grade A, he would be immediately demoted to grade E upon return to the institution and would have to spend 3 months in grade E for each grade dropped (in this case, 12 months). He would also have to spend 120 days in C grade as added punishment for his time in E grade. Then the promotion schedule could continue as usual. Since only prisoners in A grade were permitted to appear before the Parole Board, this would mean that the escapee would need to wait over two years (28 ½ months, to be precise) to have his case heard. This good time grade system was also used for women prisoners at Dwight.

<sup>523</sup> See 740 ICLS 110. This law is designed to protect records and communications created in the course of providing mental health services.

<sup>524</sup> Charles S. Johnson (Chicago Commission on Race Relations), *The Negro in Chicago: A Study of Race Relations and a Race Riot* (Chicago: The University of Chicago Press, 1922), 388.



prisoners to expose extreme forms of disciplinary discrimination while incarcerated, especially since Joliet prisoners in D and E grades were allowed to have visitors only with special permission from the warden. Still, visitors and prisoners at Joliet could speak in any language they liked and were allowed some privacy from guards by virtue of a large visiting room combined with the cacophony of a great number of visits going on at once. Men incarcerated at Menard were required to speak English at all times during visits, and to speak loudly enough to be overheard by the supervising guard. Moreover, all prisoner letters at Pontiac, Joliet, and Menard were censored by civilian employees and their inmate assistants. At Menard, men had to pay for their own postage and were permitted to write letters only once each week if in grades A, B, or C.<sup>525</sup> But because letters were censored by the institution, even men serving time in higher grades with access to funds for stamps would have found it difficult to send any negative information regarding their treatment behind bars out to their families.

While many African American prisoners probably kept quiet about discriminatory treatment in prison even after they were released, a group of black men who had served terms in the reformatory at Pontiac reported abuse at the hands of guards and prison officials to the Chicago branch of the NAACP in 1933. These former prisoners told members of the NAACP's legal redress committee that they received "excessively heavy penalties for minor infractions of prison rules... in contrast with light penalties for white prisoners making the same infractions."<sup>526</sup> If they filed complaints about the discrimination and poor treatment with prison officials, they placed themselves at risk of further punishment from guards. According to the *Chicago Defender*, these penalties included "inhuman cruelties and solitary confinement."<sup>527</sup> The

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<sup>525</sup> *Prison System in Illinois*, 73. Those stuck in D or E grade were only allowed to write once per month.

<sup>526</sup> "Seek Legislative Inquiry into Prison Conditions: Brutal Treatment at Pontiac is Bared by Ex-Prisoners," *The Chicago Defender (National Edition)*, June 17, 1933, 3. A similar version of this story ran in *The Negro Star*.

<sup>527</sup> *Ibid.*

Associated Negro Press (ANP) updated the story in August, writing that the NAACP was now pressing for an investigation of Joliet, Menard and the St. Charles reform school for boys in addition to Pontiac. Since the former Pontiac prisoners filed affidavits with the Chicago branch, a number of ex-prisoners from other state institutions came forward to tell the NAACP of beatings, torture, denial of medical services, and poor quality in housing and food given to black inmates. Moreover, the NAACP verified testimony that prison guards demanded money from prisoners' relatives and friends in exchange for protection and good conduct reports.<sup>528</sup> There is no evidence that an extensive investigation into these allegations was ever conducted. Instead of focusing on the abuse of prisoners, those with the authority to impact prisoners' lives concentrated their attention on the behavior of prisoners themselves.

### **The Individualization of Punishment: Psychiatry, Intelligence Testing, and Personality in the ISP**

When examining each prisoner's institutional record, Burgess also came across reports from mental health officers employed at Pontiac, Menard, and Joliet. The three individual state penitentiaries adopted psychological and psychiatric services as a part of commitment procedures in 1917, primarily for the consideration of prison staff. Staff supposedly used these mental health reports when assigning each new inmate to a job within the institution and determining the level of individual supervision he would need. Over months and years of each man's confinement, the institutions' mental health staffers theoretically would contribute case notes to his institutional jacket, culminating in "a comprehensive study [of the inmate] pursued for at least a year" and submitted to the Parole Board.<sup>529</sup> As Burgess discovered during his

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<sup>528</sup> "Crime, business, and social reports by the Associated Negro Press," August 1933, 14, in the Claude A. Barnett Papers: The Associated Negro Press, 1918-1967, Part 1: Associated Negro Press News Releases, Series A: 1928-1944, <https://congressional.proquest.com/histvault?q=001583-007-0775&accountid=11752>.

<sup>529</sup> John L. Whitman, "Illinois Parole Law: Methods and Results of Administration," *Journal of the American Institute of Criminal Law and Criminology* 11 No. 3 (November, 1920), 378.

perusal of the jacket files, a comprehensive examination of each prisoner over time proved impossible. Psychiatric evaluations remained cursory, and in some cases, incomplete. Still, Burgess used notes from mental health officers' interviews, examination results, and diagnoses to fill in each prisoner's "mental age," "personality type," and "psychiatric prognosis" for use in his parole prediction study.

The Joliet-Stateville complex developed the intake measures responsible for the accumulation of these papers within prisoner jackets.<sup>530</sup> New prisoners spent at least a week in individual cells in the observation ward, closely watched by a guard. After being photographed, fingerprinted, shorn, deloused, bathed, and dressed in prison garb, each new prisoner visited the physician, took the Army Alpha intelligence test, and met with the mental health officer. In these conversations with Joliet psychiatrist Dr. Walter Martin, prisoners answered simple questions about their "heredity, personal development, education, industrial and occupational pursuits, illnesses and accident, and social interests."<sup>531</sup> The mental health officer theoretically used these materials as a starting point for continued study of each individual, informing his treatment within the institution and aggregating observations for prognosis statements submitted to the Parole Board. While Martin included each inmate's Army Alpha score and diagnosis in the pithy summary statements provided to the parole board, the psychiatrist expended more words on each

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<sup>530</sup> As State Criminologist Paul Schroeder later wrote, the theory behind this intake procedure was quite similar to the later "multiple approach to a personality study" taken in the Diagnostic Depots at Joliet and Menard. Paul L. Schroeder, "The Criminologist and Institute for Juvenile Research," in *Annual Reports of the Department of Public Welfare, Fifteenth, Sixteenth, Seventeenth, and Eighteenth* (Springfield: State of Illinois, 1935), 222. The State Criminologist's report for 1923-1924 indicates that Pontiac and Menard were unable to attract full time psychiatrists "because anyone with the ability and training necessary for the work would not subject himself and his family to the uncertain living conditions there." Good housing stock in the city of Joliet helped attract psychiatrist Dr. Walter B. Martin to the Mental Health Officer job at the prison. Herman M. Adler, "Division of Criminology," in *Seventh Annual Report of the Department of Public Welfare, July 1, 1923 to June 30, 1924* (Springfield: State of Illinois, 1924), 56.

<sup>531</sup> Adler, "Division of Criminology," 42. Infamous convicted murderer Nathan Leopold later described his meeting with psychiatrist Dr. Martin in a short paragraph in his autobiography, *Life Plus 99 Years*, indicating that the initial interview "was entirely routine." Nathan F. Leopold, *Life Plus 99 Years* (Garden City: Doubleday & Company, Inc., 1958), 107.

man's behavior in prison, attitude towards incarceration in general, and how he might fare in civil life if released. Perhaps Clabaugh's dismissal of psychiatric diagnoses and mental ages encouraged Martin and other mental health professionals within the prisons to write up their reports in plain language.<sup>532</sup> Still, Dr. Martin doubted whether prison staff or the parole board made use of any of his diagnoses, and likely found Burgess's attention to his work refreshing—three factors included in each prisoner's actuarial prognosis relied on assessments made by the psychiatrist or by those under his supervision.<sup>533</sup>

*Measuring the Criminal Mind: Race, Class, and the Army Alpha Intelligence Test*

Though Hinton G. Clabaugh largely discounted intelligence test results, especially those which assigned a mental age to each person examined, Burgess included these classifications in his study. The young sociologist came of age at a time when American psychologists professionalized, and just as applications of their work within the nation's educational, industrial, and judicial systems gained widespread acceptance. Burgess moved to Illinois only one year after the state's General Assembly passed House Bill No. 655, the first piece of legislation in the country that permitted the "permanent, involuntary institutionalization of feeble-minded individuals." The belief that spurred state representatives and senators to pass this bill—that feeble-minded persons were predisposed to socially deviant behaviors—faded following the publication of Army Alpha and Beta test results.<sup>534</sup> In Illinois, State Criminologist Herman M. Adler's discovery that the proportion of less intelligent persons within the prison system was

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<sup>532</sup> Harno, "Memorandum—Dr. Martin, Mental Health Officer," 1-2.

<sup>533</sup> When introducing Walter B. Martin, then superintendent of the Albion State Training School, at a conference in 1936, criminologist Austin H. MacCormick joked that he first met Martin "at Joliet years ago, and found him preparing psychiatric studies that went into excellent steel files and were never used by anybody that I could find, for work assignment, parole or anything else." Hon. Austin H. MacCormick quoted in transcript of "Round Table No. 4: Institutional Care," in *Proceedings of the Governor's Conference on Crime, the Criminal and Society* (Albany: s.n., 1936), 935.

<sup>534</sup> Ingrid G. Farreras, "The Professionalization of Psychologists as Court Personnel: Consequences of the First Institutional Commitment Law for the 'Feeble-minded,'" *Journal of the History of the Behavioral Sciences* 55, no. 3 (May 2019), 183.

comparable to that within the general population underscored this point.<sup>535</sup> Still, Burgess found a slight correlation between intelligence level and parole outcome, indicating that persons of superior and very superior intelligence exhibited higher rates of violation, on average, than prisoners of inferior mentality in certain institutional populations. He concluded that men exhibiting “inferior” intelligence should not be barred from parole and institutionalized permanently, as backers of House Bill No. 655 might have suggested over a decade earlier.

It is somewhat surprising that Burgess should include intelligence ratings as a plausible factor within his prediction models, however, as his findings for Joliet did not match those for

Pontiac and Menard.<sup>536</sup>

Thus, his general findings are only partially reflected in a prediction table drawn up for Joliet, the largest of the three state institutions.

**TABLE XXI**  
**INTELLIGENCE IN RELATION TO RATE OF PAROLE VIOLATION**

INTELLIGENCE RATING	VIOLATION RATE BY INSTITUTIONS		
	Pontiac	Menard	Joliet
All persons.....	22.1%	26.5%	28.4%
Very inferior intelligence.....	24.3	25.0	21.3
Inferior intelligence.....	14.7	27.1	23.4
Low average intelligence.....	22.4	23.2	31.4
Average intelligence.....	17.1	23.5	32.0
High average intelligence.....	19.8	40.0	24.1
Superior intelligence.....	26.8	34.8	16.7
Very superior intelligence.....	9.5	40.0	23.8

*Figure 14 Burgess's table showing the relation between intelligence rating and parole violation at Joliet, Pontiac, and Menard. Compare the percentage of violators for each intelligence rating to the total number of violators for the institution in question.*

Persons with “low average” or “average” intelligence are given unfavorable marks. By contrast, a Pontiac prediction table would assign unfavorable marks to young men of “inferior,” “low average,” and “superior” intelligence. Burgess’s careful coverage of the topic in the committee’s report to Clabaugh suggest that he may have incorporated this data as a corrective to the common association of “inferior mentality” with criminality. He cited Adler’s study alongside data mental health officer Dr. David P. Phillips collected and compiled from Illinois prisons in 1921, noting

<sup>535</sup> *Workings*, 231.

<sup>536</sup> For Joliet, those more likely to violate parole include persons slotted into the low-average intelligence and average intelligence group. For Menard, those more likely to violate include men in the inferior intelligence, high average intelligence, superior intelligence, and very superior intelligence groups. For Pontiac, young men likely to violate parole include those in the very inferior intelligence, low average intelligence, and superior intelligence groups. *Ibid.*

that Phillips's work exposed the "marked influence" of intelligence ratings on parole board decisions in the state. Phillips's statistics indicated that inferior intelligence constituted a barrier to release on parole, though they were not associated with recidivism.<sup>537</sup>

Though research on connections between measured intelligence and crime remained confused throughout the 1930s, Illinois sociologist-actuaries at Pontiac, Menard, and Joliet continued to include Army Alpha test scores in the actuarial predictions they sent to the parole board. A prevailing consensus emerged among professionals who administered intelligence tests—despite a proliferation of studies with differing conclusions—that antisocial behavior and low scores on intelligence tests were highly correlated. Indeed, the Illinois mental health officers assigned to each corrections facility controlled for misleading test results only among new inmates who received low scores on the Army Alpha group examination. Illinois State Penitentiary administrators required low-scoring individuals to take individual intelligence examinations, generally Stanford-Binet tests given by prison psychologists. In Illinois, contradictory evidence aside, the feeble-mindedness theory of deviance remained pervasive.<sup>538</sup> These preconceived notions likely stemmed from the eugenics research that rocketed the feeble-mindedness explanation for criminal behavior to national acceptance in the United States—judges, prosecutors, university researchers, lawmakers, mental health professionals, and many others "assumed the theory's validity and helped propagate it." Historians now argue that this theory remained influential in state institutions long after eugenic explanations of criminal behavior fell out of vogue.<sup>539</sup> This helps explain why, despite Burgess's work on 1,000 cases for

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<sup>537</sup> David P. Phillips, *Comparison of the Parole Cases, Parole Violators and Prison Population of the Illinois State Penitentiary during the Year 1921* as quoted in *Workings*, 232.

<sup>538</sup> See, for instance, Andrew W. Brown and A.A. Hartman, "A Survey of the Intelligence of Illinois Prisoners," *Journal of Criminal Law and Criminology* 28 No. 5 (Jan.-Feb. 1938), 718-719.

<sup>539</sup> Nicole Rafter, Chad Posick, and Michael Rocque, *The Criminal Brain, Second Edition: Understanding Biological Theories of Crime* (New York: New York University Press, 2016), 134.

Pontiac which indicated that prisoners who achieved “superior” scores on the Army Alpha examination were poor parole risks, the institution’s sociologist-actuary ignored this finding. By 1937, sociologist-actuary Thomas G. Hutton considered prisoners with lower-than-average scores on the Army Alpha group intelligence test poor parole risks, while he deemed the highest scoring men least likely to violate parole.<sup>540</sup>

By suggesting a probable correlation between measured intelligence and recidivism without drawing concrete conclusions regarding the use of intelligence test scores in predictive models, Burgess opened the door for old anxieties connecting feeble-mindedness and criminality to seep into parole prediction. The ISP’s reliance on the Army Alpha group examination continued until at least 1940, as did the assumption that “prisoners of superior intelligence are more likely to succeed on parole than those of dull or defective intelligence.”<sup>541</sup> Moreover, after 1933 intelligence test scores and psychiatric tests often informed the classification and subsequent institutional assignment of each new prisoner to Pontiac, Stateville, Menard, or that prison of prisons for men considered unlikely to reform, Old Joliet. The association of feeble-mindedness and criminality alongside a growing impetus to use psychometric scores as a guide to hierarchical division within state institutions likely proved detrimental to working-class prisoners and men of color who sought release on parole.<sup>542</sup>

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<sup>540</sup> Hutton, “Factors,” in Ernest Watson Burgess Papers, Box 9, Folder 3, SCRC-UCL. Either Hutton conducted his own statistical research which indicated that men who scored D and E on the Alpha test were more likely to become recidivists or he bought into older stereotypes linking intelligence and crime.

<sup>541</sup> Paul L. Schroeder, “Division of the Criminologist, including the Institute for Juvenile Research,” in *Twenty Third Annual Report of the Illinois Department of Public Welfare* (Springfield: State of Illinois, 1940), 711. In 1939, the ISP used Elsie Oschrein Bregman’s revision of the Army Alpha test, an adaption of the exam designed for the general population. Bregman’s revision removed exam questions considered inappropriate for individuals not connected with the army, though apparently it was still quite similar to the Army’s version. Psyche Cattell, “Intelligence Tests,” *Review of Educational Research* 8, no. 3 (June 1938), 225. For non-English-speaking and illiterate prisoners, ISP first used the Army Beta test and the Army Performance Scale, before replacing these examinations with the Chicago Non-Verbal Test and the Arthur Performance Scale.

<sup>542</sup> Historian Paula S. Fass argues that intelligence tests “provided Americans with a powerful organizing principle... a means for solving pressing institutional [problems]” like the classification and segregation of prisoners within the ISP. Paula S. Fass, *Children of a New World: Society, Culture, and Globalization* (New York: NYU Press, 2007),

The history of intelligence testing is inextricably intertwined with racist science, and many of the intelligence-measurement instruments of the 1920s and 1930s reflect this background. IQ tests gauged the socio-economic advantages and cultural background of each subject rather than his or her “innate intelligence,” giving an edge to the white, wealthy, and well-educated. As such, the Army Alpha and Stanford-Binet IQ tests employed by ISP mental health officers to identify mental defectives further institutionalized advantages for white, American-born men within the prison system.<sup>543</sup> I will briefly discuss the Army Alpha test and its implications for men incarcerated in the ISP here, as all Illinois prisoners sat for the examination upon admission. The Army Alpha group test was first devised for use during World War I. Test developers Robert M. Yerkes and Louis Madison Terman pressed their research on the Army, testing over 1.75 million recruits to illustrate the “value of psychology in the management of human resources.” They hoped educational institutions, policymakers, and

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51. There are many examples of mental testing within institutional settings in Illinois during the 1920s and 1930s. The Illinois State Training School at Geneva used intelligence tests to facilitate institutionalization and inform treatment plans for delinquent girls. Chicago public schools introduced standardized testing in the 1921-1922 school year. In 1925, the district attempted to administer a “classification” test to junior high school students in order to group them by ability. Many teachers resisted these efforts, with some fearing that the examination would “track students from working-class backgrounds into vocational schools” rather than high schools with stronger academic programs. Due to backlash from Chicago teachers, “the actual use of the tests remained uneven at best.” See Michael A. Rembis, “‘I Ain’t Been Reading While on Parole’: Experts, Mental Tests, and Eugenic Commitment Law in Illinois, 1890-1940,” *History of Psychology* 7, no. 3 (2004), 225-247 and Ann Marie Ryan, “From child study to efficiency: district administrators and the use of testing in Chicago Public Schools, 1899 to 1928,” *Paedagogica Historica* 47, no. 3 (June 2011), 354.

<sup>543</sup> ISP mental health officers only administered individual Stanford-Binet IQ tests to prisoners unable to adequately complete the Army Alpha test due to poor vision or hearing, illiteracy, insufficient fluency in English, or disability. Paul L. Schroeder, “The Criminologist and Institute for Juvenile Research,” in *Annual Reports of the Department of Public Welfare, Fifteenth, Sixteenth, Seventeenth, and Eighteenth* (Springfield: State of Illinois, 1935), 213. Stanford-Binet test developer Louis Madison Terman’s personal views reflected the eugenic thought widespread among white academics before the 1930s. He often argued that intelligence and racial origin were linked without any evidence to support this assertion, allowing these views to seep into his research methodology when creating the Stanford-Binet test. Persons included in his norming samples “were almost exclusively white, urban, and middle-class.” Moreover, the classist and racist professional hierarchy of Terman’s time shaped his IQ test, as his method for developing questions was “based on presumed progressive difficulty in performing tasks which he believed were necessary for achievement in ascending the hierarchical occupational structure.” Wilma Villae, “‘Termanal’ science? The work of Louis Terman revisited,” *Roeper Review* 17 No. 1 (Sept. 1994), 32-39; C.J. Karier as quoted in Wayne Au, “Hiding behind high-stakes testing: Meritocracy, objectivity, and inequality in U.S. education,” *International Education Journal: Comparative Perspectives* 12 Vol. 2 (Jan. 2013), 8.



businesses would put this new technology to use after the end of the war. Yerkes and Terman conceived of the Army Alpha, and intelligence testing more generally, as a way to mitigate constraints placed on each individual by his race, ethnicity, or class background, but did not expect to find many geniuses among the masses. Indeed, though the test in theory “reconciled equality of opportunity with inequality,” the researchers’ biased test questions and interpretation of the statistical results from military recruits further naturalized classist and racist hierarchies.<sup>544</sup>

Army Alpha and Beta tests featured questions that privileged American-born and better-educated recruits, and later, prisoners. To answer them correctly, the examinee needed a certain level of sociocultural knowledge that “immigrants, blacks, or the poor might not have by virtue of their status alone.”<sup>545</sup> The Alpha examination consisted of eight timed sections, most dependent on an individual’s level of education, including a section on arithmetic and another evaluating the examinee’s ability to identify synonyms and antonyms. For each test question answered correctly, new prisoners earned one point towards their final score. Sections with a greater number of questions thus carried more weight in the final test score. Three sections of the examination were weighted more heavily than the rest: those which asked the examinee to

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<sup>544</sup> James Reed, “Robert M. Yerkes and the Mental Testing Movement,” *Psychological Testing and American Society, 1890-1930* (New Brunswick: Rutgers University Press, 1987), 76-77; Wade E. Pickren, “Liberating History: The Context of the Challenge of Psychologists of Color to American Psychology,” *Cultural Diversity and Ethnic Minority Psychology* 15 No. 4 (Oct., 2009): 427; Au, “Hiding behind high-stakes testing,” 8-9. It is important to indicate here that while the military’s intent for the Army Alpha was to assess suitability for service in the armed forces, test developers focused on Alpha scores’ correlations with Stanford-Binet scores. The Stanford Binet test was widely accepted by civilian psychologists. Using it as a basis for determining the efficacy of the Alpha test ensured that the Alpha would be readily accepted among psychology professionals. Though this patterning of an intelligence test designed for the military on a civilian assessment may be unrelated to Alpha’s use, scholars now note that the use of Alpha and Beta test scores were mixed. Some officials ignored the scores, while others tried to assemble units of men with a diverse range of scores so no unit would contain a majority of recruits with high or low scores. See Russell T. Warne, Jared Z. Burton, Aisa Gibbons, and Daniel A. Melendez, “Stephen Jay Gould’s Analysis of the Army Beta Test in *The Mismeasure of Man*: Distortions and Misconceptions Regarding a Pioneering Mental Test,” *Journal of Intelligence* 7 Vol. 1 (February 2019), 4; John Carson, “Army Alpha, Army Brass, and the Search for Army Intelligence,” *Isis* 84 Vol. 2 (June 1993), 296.

<sup>545</sup> George White, Jr. “‘I Am Teaching Some of the Boys:’ Chaplain Robert Boston Dokes and Army Testing of Black Soldiers in World War II,” *The Journal of Negro Education*, 81 Vol. 3 (Summer 2012), 204.

identify synonyms and antonyms, complete analogies, and demonstrate the breadth of their so-called general knowledge. These three sections depended on the examinee's educational level, socio-economic status, and even his personal interests—the test measured, in short, the individual's level of preparation for the test itself. Questions designed to gauge “general knowledge” ranged in subject matter from geography and human anatomy to American advertising and industry. Yerkes' argument that the tests “measure native intellectual ability” falls flat in the face of many questions in these three portions of the exam. Was John Singer Sargent a household name for African Americans and the working class when Yerkes and his team composed the Army Alpha examination in 1917? Would recent immigrants know what Carrie Chapman Catt was famous for? Would they know where American railroad cars were made?<sup>546</sup>

Despite the proliferation of social science scholarship that refuted race-based and hereditarian explanations for low scores on intelligence tests by the late 1920s, many white psychologists continued to view African Americans and Mexican Americans as intellectually inferior. Indeed, in an explanation of classification procedures, ISP Criminologist Paul Schroeder used “the case of Richard Roe, a 30-year-old Negro” to illustrate the assignment of “mental defectives” to Menard. Schroeder wrote that the downstate, rural prison for first offenders over twenty-one years of age, with its “slower tempo of life,” would fit this man's “suggestibility and

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<sup>546</sup> Clarence S. Yoakum and Robert M. Yerkes, comp. ed., *Army Mental Tests* (New York: Henry Holt and Company, 1920), 274-275. My intention here is to trace the implementation of intelligence testing and its and potential implications for African American, working-class, and immigrant men within the ISP. For the post-diagnostic depots ISP of 1933, intelligence testing became another way for sociologists and psychologists to divide new prisoners into two groups: those with potential for rehabilitation, and those without. Patrick J. Ryan's 2011 article in *Paedagogica Historica* influences my approach here. Patrick J. Ryan, ““Young Rebels Flee Psychology”: individual intelligence, race and foster children in Cleveland, Ohio between the world wars,” *Paedagogica Historica: International Journal of the History of Education* 47 No. 6 (Dec. 2011).

sluggishness.”<sup>547</sup> Similarly, a study of Mexican prisoners at Joliet found that prison psychologists considered Mexicans and Mexican Americans slower than average. Though one Mexican prisoner with no formal schooling had taught himself to read and write Spanish and a little English, the mental health officer’s assessment dismissed these accomplishments, noting instead that the man’s “difficulty with language” made it “difficult to get a true estimate” of his mentality. The psychologist summed up his assessment at the end of his notes: “Dumb but willing.”<sup>548</sup> Assessments like this reflect the common white American view of Mexican people—that they were unassimilable and intellectually inferior to whites.<sup>549</sup>

*Deviant Personalities: Egocentric, Inadequate, and Unstable in the Illinois State Pen*

Personality classifications within the prison records interested Burgess far more than intelligence test scores, as he dismissed “inferior mentality” and moved toward “the study of the personality of the individual offender” as a cause of crime.<sup>550</sup> The recognizable utility of mental health classification and diagnosis within the prison system followed a twentieth-century expansion in psychiatric expertise. As historian Elizabeth Lunbeck argues, the three decades between 1900 and 1930 witnessed the transformation of American psychiatry, with practitioners moving outside of the asylum and the realm of insanity to establish “a psychiatry of the prosaic and routine.” It was this era’s psychiatry, a discipline Elmer E. Southard predicted would “aid the common man and woman to deeper, practical insights,” that Burgess eagerly hailed as key to

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<sup>547</sup> Paul L. Schroeder, “Division of the Criminologist, including the Institute for Juvenile Research,” in *Annual Report of the Illinois Department of Public Welfare, Twenty Third* (Springfield: State of Illinois, 1940), 730. Roe arrived at Menard with the following classification attached to his file: “mental defectiveness; doubtfully improvable; inadequate personality; alcoholic tendency.”

<sup>548</sup> Warnshuis, “Mexicans in Illinois,” 320.

<sup>549</sup> René Luis Alvarez, “Minority Education in the Urban Midwest: Culture, Identity, and Mexican Americans in Chicago, 1910-1977” (PhD diss., University of Pennsylvania, 2008), Chapter 3. See especially Alvarez’s discussion of educational psychology and Mexican American students, 100-105.

<sup>550</sup> Burgess, “Factors Making for Success or Failure on Parole,” *Workings*, 232.

new insights into the causes of criminality.<sup>551</sup> Psychiatrists abandoned rigid demarcations between sanity and insanity. They promised to detect potentially dangerous mental defects in seemingly normal individuals, and in doing so embraced a continuum between those they perceived as abnormal and the normal. The rise of “personality” in psychiatric thought fits neatly within this shift towards a “science of the whole person and his or her fit to the environment.”<sup>552</sup> For the social scientists and clinical practitioners who deployed personality as a category of analysis, it comprised the individual as a product of “personal experiences, specific cultural milieu, and biological inheritance.”<sup>553</sup>

As much cultural capital as psychiatry and the study of personality accrued in the United States during the interwar period, the professional study of each inmate’s personality within Illinois prisons was limited in the 1920s.<sup>554</sup> Dr. Martin, the mental health officer retained at Joliet, told Dean Harno that he mostly met with prisoners during the intake process and again if they proved “troublesome.” He did not seem to have control over which men he saw clinically and when, likely giving him little insight into their personalities.<sup>555</sup> Though Burgess enjoyed access to notes from initial psychiatric interviews conducted during intake, mental health

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<sup>551</sup> Elizabeth Lunbeck, *The Psychiatric Persuasion: Knowledge, Gender, and Power in Modern America* (Princeton: Princeton University Press, 1994), 46. Elmer E. Southard as quoted in *ibid*.

<sup>552</sup> *Ibid*, 62, 68, 306.

<sup>553</sup> Matthew Millikan, “Personality: The Science of Selfhood in Twentieth Century America” (PhD diss., University of Chicago, 2009), 11.

<sup>554</sup> The Chicago Municipal Court, however, had been subjecting offenders to mental testing within its Psychopathic Laboratory since 1914. In the 1910s, Chicago emerged as the national leader in court psychiatry. The origins of its Psychopathic Laboratories, one for the Municipal Court and one for the Juvenile Court, were linked to hereditarian criminology as practiced by eugenicists like the Court’s Chief Justice Harry Olson. Eugenicists believed that crime was linked to hereditary mental defects within the population, and the Laboratory’s studies of the origins of criminality were guided by this initial hypothesis. Psychologist William J. Dickson presided over the Laboratory, providing reports on the “mental status” of criminal defendants to Municipal Court judges. These reports had incredible coercive power over individuals caught up in Chicago’s justice system. On Dr. Hickson’s recommendations, judges committed about a thousand people every year to state institutions for the insane or “feeble-minded.” The Juvenile Court’s Psychopathic Institute gradually diverged from the eugenically motivated Municipal Court’s Psychopathic Laboratory due to the changing ideas of its lead practitioner, psychiatrist William Healy. Through his studies of youthful offenders at the Institute, Healy concluded that environmental factors, rather than inherited mental abnormalities, were the primary cause of crime. Willrich, *City of Courts*, Chapter 8.

<sup>555</sup> Harno, “Memorandum—Dr. Martin, Mental Health Officer,” 1-2.

professionals were largely sidelined within the prison and often able to make only cursory observations, meaning that classifications of each prisoner's personality type seemed tentative to the researchers. Martin and his colleagues could slot prisoners into one of three categories: "egocentric," "socially inadequate," or "emotionally unstable." The limited diagnostic ability of the mental health professionals at Joliet, Pontiac, and Menard led to reliance on these three umbrella terms, along with a diagnosis indicating normalcy, "no gross personality defect."<sup>556</sup> While Burgess associated only "egocentric" personality types with recidivism, men deemed "socially inadequate" or "emotionally unstable" likely received an unfavorable psychiatric prognosis, a mark against them in the prediction schema. The sociologist did not define the three diagnostic categories indicating psychiatric abnormality, but his classification terms were the same as those used by mental health personnel in Illinois correctional facilities.<sup>557</sup> To better understand these classifications and the tendency of contemporary psychiatrists to pathologize what they saw as racial and class deficiencies, I turn to recent work in the history of psychiatry

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<sup>556</sup> Burgess, "Factors Making for Success or Failure on Parole," *Workings*, 232. For an example of Martin's diagnosis of "no gross personality defect," see "Parole Study Sheet for Henry Yepsen," in Ernest Watson Burgess Papers, Box 34 Folder 8, SCRC-UCL.

<sup>557</sup> The terms were used among clinical practitioners in Illinois's Department of Public Welfare during the 1920s, and as such, appear regularly in annual reports. For examples, see Herman M. Adler, *Sixth Annual Report, Division of Criminology, July 1, 1922 to June 30, 1923* (Springfield: State of Illinois Department of Public Welfare, 1924), 29; Herman M. Adler, *Report of Mental Health Survey of LaSalle, Peru, and Oglesby* (Springfield: State of Illinois Department of Public Welfare, 1925), 23-4; Herman M. Adler, "Division of Criminology," in *Twelfth Annual Report of the Department of Public Welfare, July 1, 1928 to June 30, 1929* (Springfield: State of Illinois Department of Public Welfare, 1929), 60. The three terms in question here often appeared under yet another umbrella term, "psychopathic personality." This category was only nebulously defined in the 1920s and the confusion is reflected in institutional statistics. While some mental health professionals identified large numbers of psychopaths in "criminal groups or delinquents," others found only a few. Indeed, American psychologist George E. Partridge noted in a 1930 article that "ideas relating to psychopathic personality are scattered widely throughout psychiatric and criminological works." Our modern definition of the psychopath and all of its sprawling variations only began to crystallize later in the 20<sup>th</sup> century, helped along by psychiatrist Hervey M. Cleckley's work, *The Mask of Sanity*. George E. Partridge as quoted in Theodore Millon, Erik Simonsen, and Morten Birket-Smith, "Historical Conceptions of Psychopathy in the United States and Europe," in *Psychopathy: Antisocial, Criminal, and Violent Behavior*, Theodore Millon et al. eds. (New York: The Guilford Press, 1998), 13. Also see James Horley, "The emergence and development of psychopathy," *History of the Human Sciences* 27 no. 5 (2014), 96-98 and Greg Eghigian, "A Drifting Concept for an Unruly Menace: A History of Psychopathy in Germany," *Isis* 106 No. 2 (June 2015), 288-296

and to a small collection of individual case summaries from Burgess's parole study. These "parole study sheets," tucked away in Burgess's academic archive, often contain psychiatric diagnoses or the prison mental health officer's summarized assessment of the prisoner in question.

In the early twentieth century, eugenicists, mental health professionals, and social welfarists used the term "socially inadequate," weighing it down with multiple definitions. Though these burgeoning professional groups employed the term for different purposes, all understood that persons deemed socially inadequate lacked self-sufficiency and economic stability. Those in this category were so dependent on others that they could not contribute to their communities or perform their duties as citizens. Psychiatrist William Alanson White, an early supporter of Freud and superintendent of St. Elizabeths Hospital in Washington, D.C., gave the term psychological weight in a 1917 work, *The Principles of Mental Hygiene*. He defined "the socially inadequate as 'people who fall short in their make-up of these qualities which make it possible for them to react in a way which is satisfying or acceptable to the standards of society of which they form a part.'" Social inadequacy was not the first term used to pathologize the poor and marginalized in American society. Criminologist Lizzie Seal notes that the "dependent, defective, and delinquent" classes researched by Burgess's disciplinary forefathers in the late nineteenth century were "a conceptual forerunner of the socially inadequate."<sup>558</sup>

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<sup>558</sup> William Alanson White as quoted in Lizzie Seal, "Designating Dependency: The 'Socially Inadequate' in the United States, 1910-1940," *Journal of Historical Sociology* 26 No. 2 (June 2013), 148. Ibid, 146. Seal also offers explanations of the eugenicist and social welfarist definitions of "socially inadequate." Early twentieth century eugenicists were first to use the term to delineate a category of people who did not meet their social and moral standards, and considered social inadequacy a heritable trait. "The socially inadequate" became a label for the poor mobilized by prominent eugenicist Harry Laughlin and others in the political arena, leading in turn to forced sterilizations and deportations of those considered a drain on society. Forced sterilizations reached their peak in the 1930s, when over 2,000 compulsory operations were performed each year. Seal indicates that many states' sterilization laws included "the phrase 'the probable parent of socially inadequate offspring' in determining whom should be sterilized." By the late 1930s, however, the eugenical definition of the term fell out of vogue. The

Psychiatrists likely mobilized White's definition of social inadequacy as a diagnosis for people of color and the poor confined within Illinois prisons and other carceral spaces, though they did continue to use the older designation, "defective," alongside it in the 1920s. African American prisoner Charles Williams's case helps us parse the diagnostic process that shunted poor and nonwhite prisoners towards abnormal psychiatric diagnoses and unfavorable recommendations from the institutions' mental health officers. Williams's crime was straightforward and seemingly committed out of desperation. While traveling through Venice in search of work in 1924, Williams caught a chill. He stepped into the vestibule of a church filled with parishioners and stole an overcoat worth twenty-five dollars "because I needed one and didn't have one." The authorities swiftly apprehended him, he plead guilty to grand larceny, and arrived at Southern Illinois Penitentiary on a sentence of 1-10 years. There, the mental health officer's interview questions exposed Williams's lengthy criminal record. After administering an intelligence test, the officer concluded that Williams had "the mind of a child about eight years old." The psychiatrist seemed baffled when noting that the young man, whom he characterized as a "vagabond" with physical and mental health problems, related the "story of his life with apparent satisfaction and pride." In recommendations to the parole board, the mental health officer classified Williams as "a mental defective." He also noted Williams' seeming dependency on state institutions and indicated that he would be "unable to keep out of trouble without supervision."<sup>559</sup> Williams' numerous prison terms, his mental rating as assessed by the institution's psychiatrist, and blindness in his right eye all would have placed him among the ranks of the socially inadequate for Burgess as he recorded personality ratings for each case.

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psychological and social welfarist usages of the term continued, and "social adequacy" was commonly defined "in terms of 'social self-sufficiency and 'social independence.'" Ibid., 156, 161.

<sup>559</sup> Parole Study Sheet for Charles Williams, #6365, in Ernest Watson Burgess Papers Box 34, Folder 8, SCRC-UCL.

While Burgess's statistics indicated that the socially inadequate were comparatively unlikely to break parole, labeling a prisoner with this term or the older terms related to it might result in the "unfavorable" psychiatric prognosis associated with return to the penitentiary. The Mental Health Officer rendered this very assessment in Williams's case.

Situating Charles Williams's story within the milieu of interwar psychiatric thought both contextualizes the Mental Health Officer's prognosis and exposes the racist assumptions undergirding it. Recent historiography has further revealed how ideas about racial difference circulated among practicing mind scientists in the first half of the twentieth century. In this literature, historians attend to the evolution of ideas about race within psychiatric thought and explore how this translated into practice in the institutional setting, exploring the lived experience of African American mental patients.<sup>560</sup> Mobilizing this literature can help us understand the probable intellectual background of psychiatrists within the Illinois prison system and the potential consequences of racialized psychiatric thought as applied to the diagnoses of black prisoners.

The institutional psychiatrists who examined Williams and other African American men in the 1920s likely thought about race as "though it were an essence or constitution, with each racial type understood as possessing a unique emotional make-up as an essential part of biological inheritance." If they subscribed to and read professional journals of the period, the

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<sup>560</sup> Dennis Doyle, "'Racial differences have to be considered': Laretta Bender, Bellevue Hospital, and the African American psyche, 1936-1952," *History of Psychiatry* 21 Vol. 2 (June, 2010), 206-223; Matthew Gambino, "'These strangers within our gates': race, psychiatry and mental illness among black Americans at St. Elizabeths Hospital in Washington, DC, 1900-1940," *History of Psychiatry* 19 Vol. 4 (2008): 387-408; and Martin Summers, *Madness in the City of Magnificent Intentions: A History of Race and Mental Illness in the Nation's Capital* (New York: Oxford University Press, 2019). For a review of the literature on the intersection of race and psychiatry in the United States, see Deborah Doroshow, Matthew Gambino, and Mical Raz, "New Directions in the Historiography of Psychiatry," *Journal of the History of Medicine and Allied Sciences* 74, No. 1 (December, 2018), 20-22. These works acknowledge the real presence of disease as well as the socially constructed nature and political uses of scientific conceptions of mental illness.



articles within would have supported this view of race as well as the assumption of black inferiority. Most professional psychiatrists believed that bodies of color were less evolved than white bodies, and from this hypothesis surmised that black bodies produced inferior minds that were “more childish, animalistic, and less developed” than white minds.<sup>561</sup> Indeed, historian Martin Summers points out that “the American psychiatric profession”—in talks, in papers, at conferences, and in clinical practice—considered “the white psyche as the norm.” Because they believed in a fundamental difference between African Americans and whites, psychiatrists therefore conceived of the black psyche as “alien and fundamentally abnormal.”<sup>562</sup> This likely meant that Mental Health Officers either knowingly or unknowingly looked for signs of mental inferiority and psychological maladjustment in each black man admitted to an Illinois prison.

Prisoners who revealed impoverished upbringings or mentioned economic insecurity might also risk an unfavorable psychiatric prognosis, especially once the ISP implemented the Burgess system in the mid-1930s. During the Depression, social and mind scientists studying poverty began to describe the problem in terms of lower-class behavior and culture. This concept of lower-class culture gained traction and took on “psychological overtones” by the mid-1930s,

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<sup>561</sup> Doyle, “Racial differences,” 206-207. It is worth noting that psychologist Brian K. Williams argues that the rise of behaviorism among psychiatrists and psychologists studying personality shifted attention away from hereditarian explanations and their attendant myths and stereotypes about African Americans in the 1920s and 1930s. He also suggests that many mental health professionals and social scientists dismissed the notion of significant racial difference, citing American educational psychologist Charles H. Thompson’s 1934 study of 129 psychologists, teachers, sociologists and anthropologists. A survey of these scholars revealed that a mere 4% believed in racial superiority and inferiority, according to Williams. A look at the original article, however, reveals that Williams interpreted Thompson’s work too hastily. This 4% sample agreed only that “race superiority and inferiority” had not been reliably proven. 46% of the respondents were still willing to consider “race inferiority” a plausible explanation for differences between African Americans and whites. Further, in response to Thompson’s question “Do you conclude from recent investigations that Negroes are inherently mentally (inferior to) or (equal to) whites?” 64% of psychologists indicated that the evidence was inconclusive and 25% believed that recent studies proved Black mental inferiority. It is unclear if these scholars knew that the survey came from Thompson, then a faculty member at Howard University, or if it arrived on Howard University letterhead. Either or both of these factors might have affected survey responses. Brian K. Williams, “The African-American Personality: Early Conceptions,” *Journal of African American Studies* 18 No. 4 (December 2014), 504-505. C.H. Thompson, “The Conclusions of Scientists Relative to Racial Differences,” *The Journal of Negro Education* 3 No. 3 (July 1934), 498-499. Burgess was among the academics surveyed.

<sup>562</sup> Summers, *Madness in the City of Magnificent Intentions*, 4-5.

as social scientists began to explain psychological disorder as a result of the social disadvantages of lower-class family life. The violence and instability of poor families, some argued, shaped a distinctive “lower-class personality type.” Mental health professionals believed that lower-class child thus tended towards risky behavior, “superstition, aggression, and sexual promiscuity.”<sup>563</sup> When this child reached adulthood, he would remain in poverty because he did not possess the personality traits necessary for economic success and upward social mobility. Furthermore, as John Landesco’s research notes indicate, some environmentalists hypothesized that the very living conditions that characterized poor urban communities could provoke the sudden outbursts of violence indicative of emotional instability.<sup>564</sup>

Burgess eluded to this lower-class explanation in his notes and the psychiatric recommendations featured in the case of a second Charles Williams included in the collection of parole study sheets. This Williams, a white American-born man who worked as a painter and shoemaker, was sentenced to Joliet for 25 years for killing his wife.<sup>565</sup> The characteristics of this

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<sup>563</sup> Alice O’Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth Century U.S. History* (Princeton: Princeton University Press, 2001), 55, 65-66. Also see James T. Patterson, *America’s Struggle against Poverty in the Twentieth Century* (Cambridge: Harvard University Press, 2000), 49. Historian Mark Pittenger shows that some social scientists attempted to understand working-class psychology by going undercover on the shop-floor, in the saloon, and at the boarding house in the 1920s and 1930s. These undercover investigators, hailing from the middle and upper-classes, sought to “establish the fundamental similarity between working-class and middle-class mental functioning,” but often unwittingly highlighted “images of difference” in their writing as a result of the clash between their own preconceptions and lived experiences. Still, they challenged the common assumption that unskilled labor caused mental deterioration as well as the views of prominent Wharton School industrial researcher Elton Mayo, who claimed that worker’s complaints about safety and inequity were a result of this mental decline. In the end, Pittenger argues, industrial managers’ persistent efforts to understand and shape their workers’ minds are indicative of an ongoing belief that working-class psychology “was indeed ‘different’ and required some degree of control.” Mark Pittenger, “What’s on the Worker’s Mind’: Class Passing and the Study of the Industrial Workplace in the 1920s,” *Journal of the History of the Behavioral Sciences* 39 Vol. 2 (Spring 2003), 146, 148, 152-153, 155.

<sup>564</sup> See “#6412 Joliet. Stanislaw Rumehus. Interviewed by Mr. Landesco September 19, 1927,” in Ernest W. Burgess Papers, Box 34 Folder 8, SCRC-UCL. For description of category “emotional instability,” see Department of Public Welfare, *Statistical review of prisons, reformatories and correctional schools* (Springfield: State of Illinois, 1939), 35.

<sup>565</sup> I will hereafter refer to this Charles Williams as C. Williams in instances where he might be confused with the first Charles Williams mentioned on pages 225-226. Additionally, though Williams mentioned his wife’s weight during his parole hearing, he never mentions her name. Note also that before making his diagnosis and recommendation to the parole board, the psychiatrist examining Williams would have perused materials in his

crime are central to the psychiatric diagnosis and prognosis. Williams's parole hearing transcript, the State's Attorney's statement, and a letter from his brother Benjamin Williams offer a fairly clear account of his offense. According to the State's Attorney, C. Williams' wife entered the home where she lived with Charles and Benjamin Williams at eleven in the evening. Williams recalled his wife coming home drunk and raising a racket trying to get inside the apartment. The dwelling was dark and we have only Williams's account of what happened next. Once she made it inside, she injured her hand on their stove and became enraged. Williams remembered her next knocking him over with a heavy "stove hearth," or perhaps a fire poker, as Benjamin Williams later remembered. Either way, Charles Williams fell and found himself trapped on the floor between the stove and a table. He told the parole board that his wife threatened him as he lay on the ground, saying "'I will kill you' and a lot of other things [profanities] I don't want to mention here." Desperate, according to his account, Williams drew out his pocket knife and "cut her three times." Witnesses in the street outside and in the apartment below the Williamses told the State's Attorney that they heard sounds of a violent struggle. Soon, Williams's wife came outside and stumbled into the street, dying from her wounds.<sup>566</sup>

As Burgess read through C. Williams's institutional jacket file, he seized on a cultural explanation to both make sense of Williams's violent act and cast doubt on his ability to succeed on parole given his "past record and the murder of his wife." Williams and his spouse, the sociologist wrote, were "of low cultural level" and had histories of "disorderly, intoxicated, and

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institutional jacket file, reviewed the results of his Army Alpha test, and conducted a face-to-face interview with the prisoner himself. This psychiatric interview offered Williams "his first opportunity to discuss at length the crime for which he has been committed and his motives in committing it." Herman M. Adler, "Division of Criminology," in *Eleventh Annual Report of the Department of Public Welfare, July 1, 1927 to June 30, 1928* (Springfield: State of Illinois, 1928), 26.

<sup>566</sup> "Statement of State's Atty," "Hearing- Rhoades," and Benjamin F. Williams to Hinton G. Clabaugh, December 20, 1926, all included in Parole Study Sheet for Charles Williams, #5627, in Ernest Watson Burgess Papers Box 34, Folder 8, SCRC-UCL.

criminal behavior.” Burgess’s short notes imply that he considered the Williamses cultural background the root of their propensity for violence. Because of their “low cultural level,” the couple lacked the “self control” necessary to resolve their arguments without engaging in physical altercations.<sup>567</sup> The psychiatrist who evaluated Williams, likely Dr. Martin, held a slightly better opinion of the prisoner, recalling a pleasant psychiatric interview. He wrote in his recommendation to the Parole Board that the 47-year-old man answered questions readily and displayed a good attitude. Still, part of Martin’s diagnosis incorporates language pointing to Williams’s class status. Martin referenced both the prisoner’s criminal history and his employment history when he noted that Williams had encountered “several previous difficulties in civil life.” These “difficulties” included the time Williams spent in prison and the workhouse, as well as his apparent inability to find legal employment—Joliet was unable to find evidence of Williams ever holding a job. This history indicated to Martin that Williams was unable to handle the stressors present in his life, and that these stressors triggered adverse emotional reactions: his impulsive and aggressive tendencies. Martin seemed to believe that these emotional reactions were connected both to Williams’s crime and to his difficulties “in adjusting properly [to his social environment] prior to this offense.”<sup>568</sup> He diagnosed C. Williams with emotional instability.<sup>569</sup>

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<sup>567</sup> Parole Study Sheet for Charles Williams, #5627, in Ernest Watson Burgess Papers Box 34, Folder 8, SCRC-UCL.

<sup>568</sup> “Psychiatric,” in *ibid.* Though Martin’s final diagnosis did not classify C. Williams as a socially inadequate individual despite these markers, it is reasonable to infer that in this case the personality rating that matched his previous crimes took precedence over the one that defined his social condition. Williams served two terms in the Southern Illinois Penitentiary for robbery and assault before murdering his wife.

<sup>569</sup> *Ibid.* To make this diagnosis, the psychiatrist deemed C. Williams unable to respond rationally to emotional stimuli. Dr. Martin probably thought that the man had sabotaged himself in his work life and personal life by exhibiting “excessive emotional reactions” and making impulsive, violent decisions when faced with stress or conflict. This diagnosis also fits closely the State’s Attorney’s characterization of Williams’s crime. The prosecutor argued that evidence and witness testimony showed that Williams killed his wife in a jealous rage when she arrived home late after socializing and drinking with other men.

The psychiatrist's assessment drew on "the maladjustment model of mental health," a diagnostic framework promoted in the mental hygiene movement and focused on the inability of a person to adapt to their social surroundings.<sup>570</sup> State Criminologist Herman M. Adler was an early adopter of this model, which often gauged an individual's level of "adjustment" by examining his economic success or failure. Psychiatric and social work practitioners considered a man's ability to secure and hold down a steady job central to proper adjustment. In doing so, they tied personality classifications to employment and pushed un- and under-employed working-class men like C. Williams into deviant categories. An article Adler wrote while on faculty at Harvard Medical School, shortly before his appointment to the State Criminologist role in Illinois, may lend insight into the personality categories and their connections to class status. By investigating a group of 100 male patients at the Boston Psychopathic Hospital who experienced chronic un- or under-employment, Adler hoped to "help pave the way to an understanding of the kind of individual who is likely to get into economic difficulties" and how best to address these deviant personality types.<sup>571</sup> He identified three personality types among men with difficulty holding down a job: the same three later used to sort men who deviated from the "normal" in Illinois prisons, albeit with slightly different names. Each patient was deemed a "paranoid [egocentric] personality," an "inadequate personality," or an "emotionally unstable" personality.

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<sup>570</sup> Joseph M. Gabriel, "Mass Producing the Individual: Mary C. Jarrett, Elmer E. Southard, and the Industrial Origins of Psychiatric Social Work," *Bulletin of the History of Medicine* 79 No. 3 (Fall 2005), 450.

<sup>571</sup> University of California Academic Senate, "Herman Morris Adler, Psychiatry and Law: Berkeley," *University of California: In Memoriam, 1935-1936*, UC History Digital Archives, University Archives, The Bancroft Library, University of California at Berkeley. Herman M. Adler, "Unemployment and Personality—A Study of Psychopathic Cases," in *Mental Hygiene* 1 No. 1 (January 1917), 16. He noted that the men ranged from twenty-five to fifty-five years of age and that "only a part" of the sample suffered from identifiable mental diseases, presumably to show that his sample could stand in for the general population.

In keeping with the focus of his article, Adler's description of each deviant personality type focuses on the aspects likely to cause problems in a work environment. Later ISP descriptions reported in 1939 address economic and social adjustment more broadly. In both sets of definitions, however, the "normal" personality is only defined in the negative, and is presumably an assortment of characteristics allowing a man to hold steady work, exhibit proper moral judgment, and succeed in social relationships. This early casting of employment as a marker of normalcy, then, suggests that unemployed men were insufficiently "adjusted" to their socioeconomic environments. Therefore, they likely exhibited deviant personality traits that prevented them from holding jobs. This view obscured broader economic forces, like discriminatory hiring practices and seasonal employment, that drove un- and under-employment, shifting the blame for chronic joblessness to the "maladjusted" working-class or black prisoner.

This maladjustment model adopted by Adler and widely accepted in the social and mind sciences in the late 1920s and 1930s was more complex and less coherent than the earlier theory that criminality was due to mental inferiority. Adler's "paranoid personality" and Burgess and Martin's "egocentric personality" is perhaps the best example of this and the most difficult of the three personality categories to pin down, historically speaking. Burgess himself asserted in a 1923 article that egocentric behavior could be "empirically recognized by common sense."<sup>572</sup> Still, when examining both contemporary psychiatric work alongside the diagnostic blurbs included in the parole study sheets, we can cobble together a more extensive definition for the egocentric personality in the Illinois prison context. By 1929, Illinois prisons apparently diagnosed egocentricity at a much higher rate than other American correctional facilities: about seventy-five per cent of Illinois prisoners were "diagnosed to be egocentric" while only five per

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<sup>572</sup> Ernest Watson Burgess, "The Study of the Delinquent as a Person," *American Journal of Sociology* XXVIII No. 6 (May 1923), 668.

cent of prisoners were “so diagnosed in other states.”<sup>573</sup> This likely was due to a difference in definition rather than marked differences between incarcerated men in Illinois and incarcerated men elsewhere. By 1939, Illinois found that only twenty-nine per cent of its inmates were egocentric, demonstrating that this definition likely shifted over the twelve years since Burgess’s study.<sup>574</sup>

The definition Adler outlined in a 1920 talk given at the Annual Meeting of the American Institute of Criminal Law and Criminology implies a range of severity possible in the personality type. While he warned at the beginning of his paper that the traits associated with the egocentric personality are “fraught with danger,” he later argues that the egocentric personality “includes within it a great diversity of personalities”—some more dangerous than others.<sup>575</sup> The common characteristics found among this range of personalities united them under the egocentric classification. Primarily, the egocentric individual held “a distorted perception of his relation to his environment” in which the ego was given “undue weight.” Such individuals were “easily offended,” and tended towards cruelty, vanity, selfishness, deceitfulness, and arrogance. They were willing to sacrifice others for their own gain. Adler also attributed a certain degree of cunning to the egocentric personality, noting that people who exhibited this personality type were perceptive—they could read others easily and used information gained to serve their manipulative ends.<sup>576</sup>

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<sup>573</sup> E.H. Sutherland, “Methodological Significance and Limitations of Specific Statistical Methods,” *Social Forces* 7, No. 4 (June, 1929), 562.

<sup>574</sup> In 1939, the ISP defined egocentrics as “those individuals who are essentially selfish, disagreeable, hard to get along with, resistant to control, inclined to be aggressive and to take things into their own hands regardless of the rights of others.” In general, the egocentric man would also exhibit anti-social tendencies. Department of Public Welfare, *Statistical review of prisons, reformatories and correctional schools* (Springfield: State of Illinois, 1939), 35.

<sup>575</sup> Herman M. Adler, “The Criminologist and the Courts,” *Journal of the American Institute of Criminal Law and Criminology* 11 No. 3 (1920), 419-420. Adler’s introduction of levels of severity within the diagnosis may also help account for the disproportionate number of egocentric personalities identified among Illinois prisoners.

<sup>576</sup> Adler, “Criminologist and the Courts,” 420-421.

Like Martin's diagnoses of social inadequacy and emotional instability, his identification of men with egocentric personalities focused on the psychiatrist's estimation of whether the degree of abnormality would present difficulties for the individual in civil life. Martin found no fault with egocentricity as long as the trait did not pose an impediment to economic and social success. The psychiatrist seemed to believe that personality traits could not be considered abnormal when they applied to the exceptions in the prison population—the high school graduates, the successful businessmen who, in Martin's view, could leverage egocentric traits to their advantage. In a note to the parole board outlining his assessment of egg broker Henry Yepsen, Martin seemed impressed by Yepsen's resume. He described the convicted forger as “a man of superior intelligence with a high school education who has been in business for himself for several years” and mentioned Yepsen's membership in “several masonic orders.” His egocentricity, far from being an impediment, had helped him succeed in business. Martin found no “gross personality defect” lurking in Yepsen's psyche, but instead found him “sufficiently egocentric to be successful in business.”<sup>577</sup> By contrast, the psychiatrist attributed bricklayer John McCullough's lengthy criminal record to his egocentricity. McCullough's criminal record indicated a “difficulty with environment” and “inability to get along properly in civil life,” maladjustment suggestive of a defective personality. Though McCullough got along well at Joliet, exhibiting a positive attitude and maintaining a spotless disciplinary record, Martin remained leery of the man's ability to stay out of trouble once released on parole. McCullough's “disproportional egoism” would remain unchecked and his wholly average reality would chafe against his inflated image of himself.<sup>578</sup>

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<sup>577</sup> W.B. Martin, “Psychiatric,” in Parole Study Sheet for Henry Yepsen, Joliet #94, in Ernest Watson Burgess Papers Box 34, Folder 8, SCRC-UCL. See chapter 3 for further analysis of Yepsen's case.

<sup>578</sup> W.B. Martin, “Report of Mental Health Officer, 2-8-24,” in Parole Study Sheet for John McCullough, Joliet #3371,” in Ernest Watson Burgess Papers, Box 34, Folder 8, SCRC-UCL.



In Adler's estimation and in the ISP descriptions published two decades later, these three types of deviant personalities were not "absolutely fixed and permanent." They could be "adjusted," perhaps inching towards normalcy as watered-down versions of themselves. Associating each individual with a personality type would allow prisons and in-patient asylums to quickly identify a course of treatment or recommendations for supervision in parole cases. Before this corrective education took place, extreme features of these personality types could prevent a man on parole from "adjusting" to civil life—holding a steady job, supporting his family, avoiding alcohol, and obeying the law. For instance, Martin would have identified traits in C. Williams's case that he believed prevented the prisoner from adequately adapting to the demands of the workplace and the emotional trials of domestic living.<sup>579</sup> Still, Martin would have believed that nearly all men who fell under the deviant personality categories used by the prison could be pushed towards normalcy with proper management. C. Williams's spotless prison record perhaps indicated for the psychiatrist that the institution's brand of "corrective education" was working. However, the question for Martin and for the parole board remained: could C. Williams break from his past and succeed on parole?

Other ISP mental health professionals perhaps linked poverty to mental abnormality without drawing on the "lower-class culture" explanations Burgess hinted at, instead keeping broader contemporary forces in mind while evaluating prisoners. These practitioners could rely on Depression-era theories about the psychological effects of widespread economic instability to inform their diagnoses. Many knowledge-producers and cultural commentators worried more

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<sup>579</sup> The mental health officer's notes indicate that he did not believe that C. Williams's "emotional instability" defined him, perhaps partly because the man navigated prison life easily. He kept out of trouble at Joliet, where he knew the rules, "responded well under disciplinary treatment," and maintained a spotless record. Instead, Martin wrote that C. Williams committed his crime "during a definite emotional period" and that he "displayed... rather hasty judgment during a stressful" time. This euphemistic description—of a "rather hasty" decision to commit murder—indicated that C. Williams reacted impulsively and violently to situational triggers. It was followed by Martin's observations that Williams had a "good attitude" and "responded well under disciplinary treatment."

about apathy than aggression or emotional instability in the 1930s—arguing that that growing unemployment and despair over the collapse of the economy had shattered the “morale” of the lower classes. They expressed concerns about the psychological condition of unemployed working-class individuals and their families. Observers fretted over the seeming indifference of jobless young people unable to enter the workforce and the potential suicidal ideations of their unemployed elders. Social workers began to identify a “psychology of relief” among their clients, a potentially destructive force that could dissolve the national work ethic. Historian James Patterson notes that these observations revealed “a widespread anxiety that the Depression would ultimately destroy initiative, the essence of the American dream.”<sup>580</sup> Still, proponents of these ideas would later turn from structural and situational rationales to cultural explanations for poverty and its ills. Depression and New Deal-era anxieties about “morale” and the “psychology of relief” among the unemployed marked the beginnings of an interdisciplinary dialogue regarding the “culture of poverty” that would tear through the social sciences in the 1940s.

The range of personality classification terms used by mental health professionals in Illinois correctional facilities expanded in the 1930s, eventually including fifteen distinct personality types. Terms listed in a 1937 list of personality ratings used by the ISP show not only the move away from umbrella terminology, but also the substitution of psychiatric conditions for personality types, including “psychoneurosis,” “epileptic,” and “dementia-praecox.”<sup>581</sup> This latter category, especially, became explicitly linked to race and would have been disproportionately applied to African American men, women, and juveniles in state custody.<sup>582</sup>

## Conclusion

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<sup>580</sup> Patterson, *America's Struggle*, 51.

<sup>581</sup> Daykin, “The Illinois Parole Prediction System,” 20, Ernest W. Burgess Papers, Box 35, Folder 7, SCRC-UCL.

<sup>582</sup> See Jonathan M. Metzl, *Protest Psychosis: How Schizophrenia Became a Black Disease* (Boston: Beacon Press, 2010).

Several years after the adoption of the Burgess method, Illinois's prison sociologists had institutional data that indicated that their prediction tables accurately anticipated parole outcome. By this point, sociologist-actuaries had also added a racial and ethnic category to the factors used to compile each man's risk score. These factors were just another piece of a prediction score already stacked against prisoners of color—an explicit and deeply controversial component which would move in and out of actuarial forecasting in criminal justice later in the twentieth century. As this chapter argued, the racism that permeated each level of the criminal justice system and shaped everyday life in Illinois for people of color negatively affected their risk scores for many of the other predictive categories. As we will see in Chapter 5, the revised versions of Burgess's method implemented within the Illinois State Penitentiary system relied even more heavily on the factors that reproduced the race and class discrimination present in the parole system since its nineteenth century beginnings. Revisions of the Burgess method thus continued the trend of earlier release of white, relatively economically fortunate, and well-connected prisoners—exactly the same men who benefitted from the parole board's original qualitative and hunch-based decision-making process. As criminal profiling developed based on the success of the prognostic scoring in Illinois, it would emphasize one feature of the Burgess method that marked these white, affluent men as “better” parole risks: using past delinquency to predict future criminal activity.

## CHAPTER FIVE

### **“Don’t Turn ‘Em Loose”: Prison, Publicity, and Parole in an Age of Carceral Expansion**

Public fascination with “thrill-killer” Nathan F. Leopold sold newspapers. First, it was his glasses. The mottled, dark-brown plastic frames lay on a railroad embankment, just a few feet from the poorly-concealed and lifeless body of thirteen-year-old Bobby Franks. The spectacles made it into the earliest stories about the Franks case, as the “single clew [sic]” found near the boy’s prone form. An already sensational case—Franks was the son of a Chicago millionaire—made headlines nationwide when police traced the glasses back to Nathan F. Leopold, Jr. Only nineteen and from a family as wealthy as the Franks, Leopold was a law student at the University of Chicago. He and his friend, Richard Loeb, were perhaps the last people the Chicago police might initially have suspected of kidnapping young Franks for ransom, and later killing him. But soon after police apprehended Leopold and seized his typewriter to compare its keystrokes to the ransom note, the two young men separately confessed to the shocking crime they had committed together.<sup>583</sup> People across the nation read their confessions in the paper and felt a combination of horror and fascination. Why would two wealthy, intelligent young men do such a thing?

The two killers dominated the news cycle for months, one golden and handsome, the other dark and brooding. As the question of a motive lingered, the papers and the public came up with their own explanations for the crime. For some, it was a thrill-killing, done for adventure. Others thought the murder was some sort of twisted experiment, committed in a search for

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<sup>583</sup> “Kidnap Rich Boy; Kill Him: Robert Franks is Victim of Mystery Death,” *Chicago Daily Tribune*, May 23, 1924, 1; “In Fiction the ‘Clew’ Solves All; Not So Here,” *Chicago Daily Tribune*, May 31, 1924, 2; “Franks Case Near Solution: Millionaire’s Son on Grill; Glasses Agree, Nathan Leopold Jr. New Suspect,” *Chicago Daily Tribune*, May 30, 1924, 1; “Two Students Held in Franks Slaying,” *New York Times*, May 31, 1924, 1; Genevieve Forbes, “Paints Leopold as Heartless After Crime: Detective Tells of Nathan’s Code,” *Chicago Daily Tribune*, July 26, 1924, 1.

knowledge of death. Many believed the motive was sexual.<sup>584</sup> The case resonated with Americans, and even when “Dickie” and “Babe” were safely behind bars, they still managed to make local and national headlines. One frequent subject of articles was their treatment in prison. Public fascination with this topic would once again bring parole to Illinois citizens’ attention.

Nothing aroused public ire quite like the thought of Leopold and Loeb receiving privileges in prison. Americans wanted to know that the convicted killers were “getting their punishment,” and papers across the country reported even small changes in each man’s routine.<sup>585</sup> In 1935, Nathan F. Leopold’s prison job made the news. Leopold was one of eight prisoners working with Joliet-Stateville’s sociologist-actuary, Ferris Finley Laune, on a new system for parole prediction. Legislators were shocked. “Why should any murderer have the slightest degree of judgment over his fellow convicts? This is another reason why I intend to introduce a bill in the next session, if I am re-elected, to abolish the state parole board,” the state representative for Libertyville snapped, when asked about Leopold’s research. State assemblymen fell over each other to condemn Laune for his poor judgement. The Associated Press delivered a scathing indictment of Leopold’s “latest experiment—a parole forecasting system which rates him as a good risk for freedom.”<sup>586</sup> Because of the young prisoner’s involvement in Laune’s work, parole prediction made news for the first time since 1933.

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<sup>584</sup> Simon Baatz, *For the Thrill of It: Leopold, Loeb, and the Murder that Shocked Chicago* (New York: HarperCollins, 2008). Also see Paula S. Fass, *Children of a New World: Society, Culture, and Globalization* (New York: NYU Press, 2007), Chapter 4, “Making and Remaking an Event: The Leopold and Loeb Case in American Culture. Fass notes that the defense psychiatrists called Leopold by his nickname, “Babe,” throughout the trial.

<sup>585</sup> Representative examples include: “Getting Their Punishment,” *The True Republican*, October 22, 1930, 3; “Loeb, Old at 21, Broken by Life in Penitentiary; But Leopold, Once Dominated by Dicky, is Becoming Leader,” *The Indianapolis Times*, May 21, 1926, 8; “Leopold and Loeb Advance: Slayers Win Promotions in Illinois Prison Shop,” *New York Times*, September 12, 1925, 25; “Loeb and Leopold Deny They are Pets: Former, Clerk to Warden, Says He Lives as Other Prisoners,” *The Washington Post*, October 1, 1928, 1; “Leopold Now Aids Chaplain: Slayer of Bobby Franks Wins New Advance at Joliet Prison,” *Los Angeles Times*, April 11, 1930, 5.

<sup>586</sup> “Legislators Condemn Parole Expert’s Use of Convict Staf [sic],” *Chicago Daily Tribune*, November 21, 1935, 5.

Laune's experiment, Leopold's work for the sociologist-actuary, and the newspaper commentary that followed reveal several trends within the Illinois state parole system that shaped prisoners' lives in the 1930s and early 1940s. The first two trends represent a continuation of earlier patterns identifiable in the work of the parole board from its beginnings. First, Laune's choice to use Leopold and Richard Loeb's "hunches" about their fellow prisoners as the foundation for his parole prediction method continued an earlier, very visible trend within parole decision-making processes. As former sociologist-actuary Courtlandt C. Van Vechten observed in a 1958 letter to Leopold, "the experts typically represent upper middle class morality and idealogy [sic]," and reform within the prison system bound prisoners to expectations defined by these views.<sup>587</sup> Even when basing his research on prisoners' opinions about their fellow convicts, Professor Laune chose the two least typical men in the prison—well-educated sons of millionaires—to aid in his work.

Second, newspaper coverage of the Illinois parole system greatly influenced the parole board's decision-making processes. Sensational crimes committed by paroled men drove much of the coverage from 1935 onward, and prompted state legislators to demonstrate their commitment to crime control by supporting the Ward-Shnackenberg bill, which would "give trial judges the power to fix minimum and maximum sentences" for convicted offenders.<sup>588</sup> As Burgess observed in a drafted letter to the *Tribune*, the newspaper seized on debates over the bill to advance its own "theory of penology," which the sociologist considered "antiquated."<sup>589</sup>

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<sup>587</sup> C.C. Van Vechten to Nathan F. Leopold, May 23, 1958, Box 19, Folder 1, Nathan F. Leopold Papers, Chicago History Museum (hereafter CHM).

<sup>588</sup> James Doherty, "20 Prosecutors Urge Approval of Parole Bill: Cite Need for Reform of Present System," *Chicago Daily Tribune*, June 29, 1937, 9. The bill was introduced by Republican Representative Elmer J. Schackenberg and Senator Harold G. Ward, a Democrat. Though Illinois governor Henry Horner vetoed the bill in 1937 after it passed in the House and Senate, legislators introduced it again in 1939. The *Tribune* supported the bill both times.

<sup>589</sup> Ernest W. Burgess, untitled and undated note, in Ernest Watson Burgess Papers, Box 4, Folder 10, SCRC-UCL.

Others, including Chicago Crime Commission Director Henry Barret Chamberlin disagreed, charging the *Tribune* with attempting to “sabotage the system without any alternative system to put in its place.” But the paper did indeed have alternatives in mind, along with a conception of risk that, while simple, resonated with many politicians eager to fight crime. The “theory” advanced on the *Tribune*’s editorial page amounted to an alternative risk ideology focused primarily on the offender’s crime and criminal record. Placing no stock in the “high sounding theories of individual and social betterment, [and] premature theories of criminal personality for which the authority of science is claimed,” the *Tribune* rejected the work of the sociologist-actuaries who guided board decisions and instead argued that trial judges were best positioned to assess and evaluate risk.<sup>590</sup> With the “details of the crime fresh in his mind and the offender’s previous record before him,” the judge could set the appropriate minimum and maximum term.<sup>591</sup> A man’s crime “was the index to his character” and an indication of “what might happen again” in the future should he be released on parole.<sup>592</sup> This view proved particularly onerous for men confined to the ISP on indeterminate sentences in the late 1930s, as the *Tribune* and other papers throughout the state consistently questioned paroles granted to all but young, nonviolent first offenders.

The third trend, connected to the first two, was the constant push for innovation and adaptation of the Burgess system in Illinois. The state hired young white men, generally from among Burgess’s students at the University of Chicago, to serve as sociologist-actuaries at Joliet-Stateville, Menard, and Pontiac. These budding researchers secured their positions in the ISP through their connections at the university, a continuation of the preference for the middle-class

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<sup>590</sup> “Court vs. Parole Board,” *Chicago Daily Tribune*, June 1, 1937, 12.

<sup>591</sup> “The Parole Reform Bill,” *Chicago Daily Tribune*, May 31, 1939, 10.

<sup>592</sup> “The Killer on Parole,” *Chicago Daily Tribune*, January 17, 1937, 22.

political appointees and professionalizing administrators who held sway over the state's parole system. This marked a period of carceral-bureaucratic expansion, involving rising prison populations, the centralization of corrections institutions, and the ongoing professionalization of penology that forged new partnerships between the university social scientists and the state.

These partnerships, both formal and informal, positioned Illinois as one of the few states with an

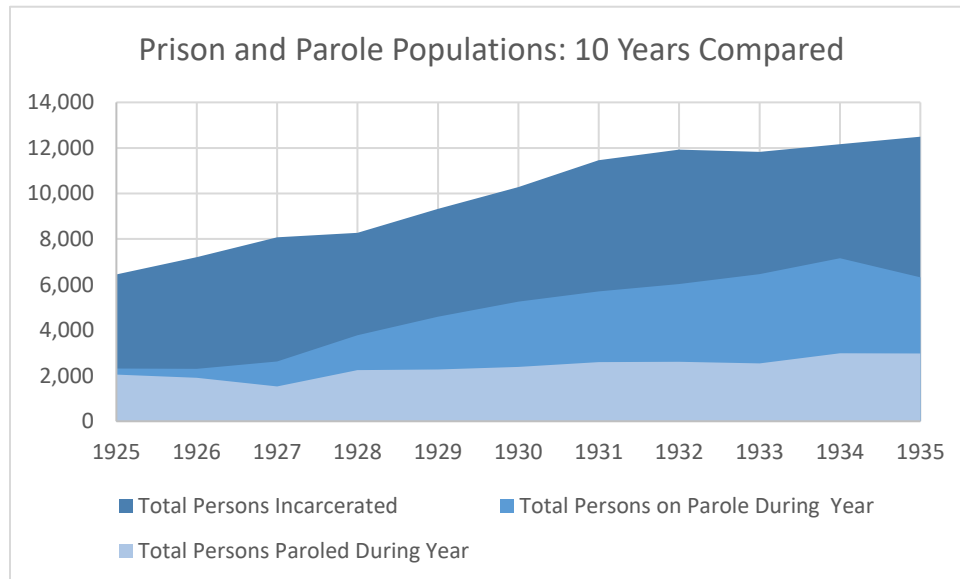


Figure 15 This chart shows the increase in prison population over the ten-year period from 1925 to 1935 as compared with the parolee population. Note that the number of paroles granted each year remains stagnant, as the number of prisoners and parolees increases. Illinois thus maintains control over a larger number of persons each year, both because the parole board delays releasing most inmates before the expiration of their maximum sentences (plus good time) and because parole supervision periods lengthen.

“organization approaching real parole administration.”<sup>593</sup> As prison populations rose, Illinois added new layers to the bureaucratic management of the prison system and worked to maintain control over the formerly incarcerated men they released into the community with a new, larger corps of rapidly

professionalizing parole agents. Though state officials may have hoped that the scientization of the parole decision-making process could ameliorate overcrowding, the rate of paroles from the Illinois State Penitentiary (ISP) never kept pace with the rate of admissions. As shown in Figure 15, admissions rose but paroles remained stagnant. The number of persons under state control

<sup>593</sup> According to Henry Barrett Chamberlin, at the time the Director of the Chicago Crime Commission and the President of the American Institute of Criminal Law and Criminology. The other states listed were New York, Pennsylvania, Massachusetts, New Jersey, and California. Henry Barrett Chamberlin, “Concerning Parole in Illinois,” *Journal of the American Institute of Criminal Law and Criminology* 26, no. 4 (Nov.-Dec., 1935), 487. Ernest W. Burgess also expresses this opinion in “Parole and the Indeterminate Sentence,” *The Prison System in Illinois: A Report to the Governor of Illinois by the Illinois Prison Inquiry Commission* (Springfield: State of Illinois, 1937), 609.



increased with admissions and with a rising population of parolees after Illinois lengthened the minimum supervision period from one year to three. This rapid expansion of the population in state custody and the public panics that curtailed paroles ushered in an age of bureaucratic development, including increased classification and segregation efforts behind prison walls, physical expansion of carceral infrastructure, and greater standardization of release procedures.

This chapter first explores the research agendas pursued by sociologist-actuaries, and the changes they made to the Burgess method, which both expanded and solidified the number of predictive factors tied to race and economic status. Sociological evaluation of convicted offenders at the diagnostic depots, large-scale intake centers set up at Joliet and Menard in 1933, ensured that a lower percentage of prisoners of color moved from the diagnostic center to rehabilitation-oriented facilities like Pontiac. The classification work pursued by sociologist-actuaries cast race and ethnicity-based profiling in an objective light within the criminal justice system and negatively affected prisoners of color at each stage of the corrections process—from prison admission to supervised release. When sociologist-actuaries installed at Pontiac, Menard, and Joliet sent predictive scores to the parole board, they consistently indicated a lower probability that black and brown prisoners would succeed on parole relative to white inmates. As the predictive system became a part of the institutional fabric, the specific risk ideology advanced by Burgess and retained by the sociologist-actuaries who implemented his method came to monopolize understandings of risk. Rather than ameliorated or mitigated by the institution, risk was instead mostly immutable and embodied by individual prisoners. The factors that comprised each prisoner's actuarial risk score would increasingly define the kinds of information parole board members and prison administrators considered valuable when evaluating new inmates for institutional assignment and, later, when assessing fitness for free

society. Still, because parts of the classification process required subjective judgment, individual sociologist-actuaries could use their own understandings of risk markers to inform categorizations in each case.

The parole board's decision-making processes likely were not quite so scientific as the sociologists and criminologists working for the Illinois State Penitentiary system might have believed, but neither were they entirely "arbitrary," as historian David Rothman would later claim. The second half of the chapter considers incarcerated and formerly incarcerated men's accounts of interactions with the board, revealing that the truth of its processes lay somewhere in between the rushed and "capricious" and the exacting, impartial, and scientific ideal touted by social scientists.<sup>594</sup> Prisoners' lives were at the mercy of board members and they spent hours analyzing accounts of hearings, speculating about board procedures, and trying to get their hands on any news that might affect board decisions. Sometimes, the board was irrationally cautious, as in 1937 when the number of paroles granted prisoners from Pontiac, Joliet-Stateville, and Menard dropped from an all-time high of 2,626 from 1935-1936 to just 492 from 1937 to

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<sup>594</sup> Rothman's contention that parole cases across the United States "were often resolved for capricious and foolish reasons" obscures the race-and-class-based calculus at the core of defining parole risks, whether rooted in social science or in "common sense." Illinois board members likely considered the prognostic risk scores generated by sociologist-actuaries, the political implications of any given release decision, their own impression of the potential parolee during the board hearing, and other factors in their deliberations. David J. Rothman, *Conscience and Convenience: The Asylum and its Alternatives in Progressive America* (New York: Little, Brown, 1980), 170. As Gerald Grob and others have pointed out, Rothman's clear-cut arguments read well, but do not match up to historical reality. Rothman argues that American parole was little more than a "game of chance," glossing over the differences between state parole systems and neglecting to consider any of what Ethan Blue calls "the formal and informal mechanisms" that deepened "modes of difference and power" in the carceral system. It is this operation of power, which granted and justified consistent advantages to the white, middle-class prisoner, that I am interested in exploring here. In addition, Rothman's chapter on parole prioritizes state bureaucrats at the expense of the people affected by the parole system, assuming that paroled men are either acted upon or utterly ignored. There is no sense of interaction beyond the parole board hearing in his framing. Gerald N. Grob, "Distorting History: *Conscience and Convenience* by David J. Rothman," *Commentary*, July 1980, <https://www.commentarymagazine.com/articles/gerald-grob/conscience-and-convenience-by-david-j-rothman/>. Ethan Blue, *Doing Time in the Depression: Everyday Life in Texas and California Prisons* (New York: NYU Press, 2012), 213-214.

1938.<sup>595</sup> The parole board had grown accustomed to the steady stream of articles detailing the criminal exploits of parolees published almost weekly in the *Chicago Tribune*, but the 1937 murder of police officer Michael Toth prompted state legislators to introduce a bill that would abolish parole in Illinois. Prisoners' dealings with the board during this tumultuous year reflected a system beholden to the headlines and the powerful political actors driven by the *Tribune's* wide public readership. It is this anomalous period, however, that brings us one of the only extant sources detailing prisoners' understandings and critiques of the parole system. Prisoners surveyed by sociologist Donald Rasmussen as part of his masters thesis research in the summer months of 1937 and 1938 portray a board mired in politics and swayed by newspaper reporting. Though filtered through the sociology student's survey questions and the 1937 scandal, anonymous prisoners' understanding of the board's logic (or lack thereof), their strategies for navigating the bureaucratic parole system, and their approach to some of the trials that awaited them outside prison walls emerge from the thesis.

Survey responses indicate that men waiting in Stateville's cells for their chance at a board hearing had access to two main sources of information about life on parole: their fellow prisoners and a slim volume titled *A New Day and How to Make It*. This volume reveals that the prison relied on Nathan F. Leopold to do more than offer his hunches to Laune for study, manage the prison library, and create correspondence courses for inmates who wished to continue their studies beyond the eighth-grade level. Though he had been incarcerated for most of his adult life, someone tapped Leopold to ghostwrite *A New Day and How to Make It*, a manual designed to prepare prisoners for life on parole. Leopold therefore worked both to refine the parole decision-

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<sup>595</sup> W.C. Jones, "Division of Pardons and Paroles," Table 1, *Twenty-First Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1938), 621. W.C. Jones, "Division of Pardons and Paroles," *Nineteenth Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1936), 506.

making process and to define what it meant to “make good” on parole, though he could not have been more different than the average prisoner. In writing the guide, Leopold could not draw on his own experiences—he had never lived on his own, worked for wages, or supported a family. Though this decision seems completely ludicrous on its face, Leopold was actually the perfect stand-in for George T. Scully, the Superintendent of Parole Supervision credited with writing the manual. In Scully’s eyes, Leopold would be ideally positioned to translate administrative jargon into conversational language accessible to the incarcerated men. Leopold could be trusted to work for the penal system, to parrot official assessments of the workings of parole, and to advocate for the kind of relationship the paroled man should cultivate with state officials. Whatever else might be lurking in his mind, Scully probably figured, the man had spent his life successfully navigating relationships with authority figures and he could teach these skills to others. The cultural capital Leopold leveraged behind bars could not be replicated, but his brand of respectability and knack for succeeding within institutional boundaries could serve him well in achieving Scully’s ends. The distribution of this manual to all prisoners within the Illinois State Penitentiary system meant that Nathan F. Leopold played a part in preparing each incarcerated man for his eventual release.

The final section of this chapter juxtaposes Leopold’s parole preparation manual, a representation of the ideal workings of the system, with the diverse array of prisoner experiences on parole. This section of the chapter uses qualitative data from Rasmussen’s survey along with interviews criminologist Hans W. Mattick conducted with former parolees in the 1950s. As sociologist-actuary for the Stateville Branch of the ISP, Mattick conducted research on men paroled to the Army directly from state prisons and men drafted to the Army while under parole

supervision.<sup>596</sup> Mattick's desire to compare civilian and military parole experiences led him to record extensive conversations with men paroled in the late 1930s and early 1940s.

These discussions reveal yet another transformation resulting from the extensive carceral-bureaucratic expansion that took place in Illinois during the Depression—an increased number of newly professionalized parole agents claimed the supervisory function once allocated to employer-supervisors for the state. Indeed, as one agent articulated, the Division of Supervision of Parolees hoped to expand its influence within the community even further, so “the theory of parole becomes a part of the very structure of the community, whose function is as real as the schools, the churches, the factories, and the recreational centers.”<sup>597</sup> Men on parole experienced increased contact with the state through these rapidly professionalizing agents and through increased policing in urban areas. Paroled men's interactions with their agents, however, expose the longevity of the ex-prisoner's negotiating power—used with great effect by parolee Charles Bain in Chapter 1. In the late 1930s and early 1940s, formerly incarcerated men interacted with their parole agents face-to-face, as well as through the mail. The outcome of these interactions shaped the parole experience, just as the relationship between a paroled man, his employer, and the prison warden had a few decades earlier. The leverage parolees had in their negotiations with the state's parole agents, often dependent on the paroled man's racial and class status, could mean the difference between making good and return to the institution.

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<sup>596</sup> Hans W. Mattick, “Military Experience as a Factor in Parole Success: A Master's thesis proposal submitted to the faculty of the Department of Sociology for approval,” January 29, 1951, 8, Box 180, Folder 3, Hans W. Mattick Papers, Chicago History Museum Research Center (hereafter CHMRC). Though Mattick and a few research assistants interviewed 435 former paroled men who had been discharged from the Army, only Mattick's interviews (155 in total) remain in the Chicago History Museum Research Center's Mattick Papers. A total of 2,942 men from Joliet-Stateville, Menard, and Pontiac served in the Army during WWII. One third of these men were paroled directly from prison to the Army “as an alternative to civilian parole,” and the remainder entered the armed forces after part of their parole had been served in civil life. Hans W. Mattick, “Parole to the Army,” 1954 (?), 2, Box 164, Folder 1, Hans W. Mattick Papers, CHMRC.

<sup>597</sup> Russell Higgins, “Effective Supervision,” in *Parole Supervision News, State of Illinois* 1, no. 5 (April 1942), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL.

### **Before the Diagnostic Depots: Clark Tibbitts Amends the Burgess System**

Clark Tibbitts grew up in Chicago, like many of the ex-prisoners he would meet while volunteering for the Central Howard Association (CHA). His childhood experiences, however, would have differed from those of the men he encountered at the CHA, and of the young offenders he met later, as a statistician for the Institute for Juvenile Research. Tibbitts was raised in Mayfair, a quiet, middle-class community of bungalows, where it was “almost an event to see a policeman.”<sup>598</sup> Parsing the reasons for his interest in crime in a paper written for Ernest W. Burgess’s Sociology 373 course, he recalled his closest brush with deviancy as a boy. His cousin, given a position of some responsibility in local government, dipped into the county coffers and got caught. This cousin fled with the funds, leaving his disgraced family behind. The crime had occurred outside Illinois, and Tibbitts’s family kept it quiet, but the cousin was later apprehended and incarcerated. For the first time, young Clark realized “what a stigma could be put upon a family that had given rise to a criminal,” and the boy learned quickly that he “should never ask about” his cousin.<sup>599</sup>

Besides some juvenile discretions of his own—the regular pilfering of candy from a local store—Tibbitts’s interest in and contact with crime remained low until after his college graduation. While in graduate school at the University of Chicago, he assisted with the study of the indeterminate sentence and the parole system conducted by Burgess, Harno, and Bruce. During his visits to Pontiac, Joliet, and paroled men over the course of the study, he developed a rapport with several parolees. It is clear that Tibbitts thought of these men less as friends and more as research subjects. In his paper for Burgess’s course, he wrote: “I enjoy the confidence of

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<sup>598</sup> Clark Tibbitts, “Background Paper. Interest in Crime,” 3, in Ernest Watson Burgess Papers, Box 139, Folder 10, SCRC-UCL. Clark’s family seems to have been comprised of middle-class, white collar workers. He mentions in this paper that two of his uncles were lawyers.

<sup>599</sup> Ibid, 5-6.

these men and can get information of almost any sort relative to their criminal careers, incarceration, and parole experiences.”<sup>600</sup> Whether due to a genuine interest in these men, an investment in the fate of the parole system, the opportunity to publish his findings, or the research funding, Tibbitts continued the prediction study where Burgess left off.

Actually, he began his work before Burgess, Bruce, and Harno sent the final committee report to Clabaugh in August of 1928. Burgess likely encouraged Tibbitts, then his graduate student, to start refining the actuarial method immediately in case Clabaugh was interested in using prognostic scores. State Criminologist Dr. Herman M. Adler agreed, and the study proceeded with support from the Institute for Juvenile Research and the Behavior Research Fund. Tibbitts sent the first update on this research to Burgess in June, discussing the addition of several new factors to the list and the diligent classification work performed by his team at Pontiac: “we are working about ten hours a day now and... by evening we shall have been through 225 cases.”<sup>601</sup> Despite the promising signs shown by Tibbitts’s work at the reformatory, and the two publications that resulted, Pontiac Reformatory did not put his research to use until 1933. By that point, Tibbitts apparently had received his doctorate and moved on to work for the Federal Emergency Relief Administration. But Pontiac would continue to use Tibbitts’s revision of the Burgess method until 1938.<sup>602</sup>

At the reformatory, Tibbitts classified three thousand cases dating from about January 1, 1921 to December 31, 1927 under a slightly modified version of the Burgess system in hopes of increasing its predictive accuracy. Part of this process involved closer reading. He skimmed

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<sup>600</sup> Ibid, 9.

<sup>601</sup> Clark Tibbitts to Ernest W. Burgess, June 17, 1928, 4, in Ernest Watson Burgess Papers, Box 21, Folder 13, SCRC-UCL.

<sup>602</sup> “The Illinois Parole Prediction System,” 4, in Ernest Watson Burgess Papers, Box 35, Folder 7, SCRC-UCL. Lloyd E. Ohlin, “The Stability and Validity of Prediction Tables” (PhD diss., The University of Chicago, 1954), 45. Clark Tibbitts, “From Description to Research,” *Social Forces* 13, no. 4 (May 1935), 490-493.

institutional jacket files to determine each boy's criminal type, rather than relying on the face sheet's summary of the individual's criminal record. In reading the files, Tibbitts came to appreciate that Pontiac's population skewed much younger than Joliet-Stateville's and Menard's, and made sure to eliminate certain categories that proved irrelevant for the majority of the youthful men confined there. Tibbitts also made minor changes in the sub-classifications under the factor headings. As he wrote to Burgess early in the study, he added "small city industrial-residential community" to the existing neighborhood classification choices. Finally, he tacked four additional factors—alcohol use, parole community, last prison work assignment, and first job on parole—onto Burgess's prediction method and tested their correlation with parole outcome.<sup>603</sup> Two of these broke the Burgess mold, gesturing towards the prospective parolee's future.

Tibbitts quickly dismissed an original Burgess category, "marital status," and a new category, "use of alcohol." Only a small number of Pontiac prisoners were married. Further, their violation rates were neither significantly higher nor lower than those of single men included in Tibbitts's sample of parolees. Inmates had considerable incentive to lie about their use of alcohol on written examination sheets provided by the reformatory, especially during Prohibition. Tibbitts suspected that each prisoner's answer to questions about alcohol consumption was "more than likely to be colored by what those wiser than himself have told him, as well as by his own idea of what will look least bad in his jacket when it is examined by the Parole Board."<sup>604</sup>

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<sup>603</sup> Clark Tibbitts, "Success or Failure on Parole Can be Predicted: A Study of the Records of 3,000 Youths Paroled from the Illinois State Reformatory," *Journal of the American Institute of Criminal Law and Criminology* 22, no. 1 (May 1931), 11-12. Tibbitts apparently wanted to include a fifth additional factor using information from prison staffers' reports related to incarcerated youth's behavior, but was "asked that it [the Staff Report] be omitted" by an official aiding him with the classification process. Though curious about these reports, the young sociologist decided not to argue for fear of trouble with prison authorities. See Tibbitts to Burgess, June 17, 1928, 3.

<sup>604</sup> *Ibid.*, 15-16.



In the classification process, the budding sociologist took particular care when interpreting the records to form impressions of the youths' criminal and social types. Aware of the subjectivity of the categories involved in this particular classification, Tibbitts indicated that more than one classification within these factors often seemed a good match for an individual boy. He claimed, however, that he was eventually able to settle on the most relevant one for each prisoner. To make these classifications, Tibbitts peered into the boys' personal lives, reading letters they received from their relatives and friends, letters from social agencies, and staff reports from Pontiac in addition to the materials included in the institutional jacket files. He admitted the difficulty of this endeavor, and seemingly doubted some of his own classifications despite drawing conclusions in each case. Reflecting on the process of identifying "gangsters," a social type that comprised nearly half of the youthful population studied, Tibbitts writes: "Of course, only in a few cases were the records complete with information covering the individual's membership in a formal gang... [but] it was possible to establish the social type in the majority of cases, and by means of certain symptoms to classify others accordingly."<sup>605</sup> Though Tibbitts found that the young men he classified as "gangsters" were less likely than many to violate parole, 46.4% of those he marked "ne'er-do-wells" were sent back to the institution after failure on parole.

The "ne'er-do-well" category proved just as slippery as the "gangster" group for Tibbitts, who failed to adequately define the characteristics of either of these social types—the two most common in his study. The graduate student attempted to define the categories by citing examples

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<sup>605</sup> Ibid, 17. Burgess's original social types included: "hobo," "ne'er-do-well," "mean citizen," "drunkard," "gangster," "recent immigrant," "farm boy," and "drug addict." He does not define any of these social types in the Committee report sent to Clabaugh or in his 1929 article in *Social Forces*. See *Workings*, 225; Ernest W. Burgess, "Is Prediction Feasible in Social Work- An Inquiry Based Upon a Sociological Study of Parole Records," *Social Forces* 7, no. 4 (June 1929), 539.

of cases fitting each classification. One young man Tibbitts classified as a “ne’er-do-well” seems more like the “black sheep” of his family instead. This youth, called B in Tibbitts’ study, “came from a very respectable family,” though the home was “broken” by his father’s death when he was a baby. As a young boy, B was never “in serious trouble” and later entered the army. He received a dishonorable discharge from the armed forces, came home, and burglarized several wealthy homes in Chicago. Presumably well-to-do themselves, B’s family got him out of court with a slap on the wrist. But B violated the terms of his probation and continued criminal

TABLE VI  
SOCIAL TYPE IN RELATION TO RECORD ON PAROLE

Social Type	Record on Parole							
	Total	Dis-charge	Per cent	Violation	Per cent	Minor	Per cent	Major
0. No class. ....	412	302	73.3	110	26.7	42	10.2	68
1. Hobo .....	30	18	60.0	12	40.0	7	23.3	5
2. Ne'er-do-well ....	472	253	53.6	219	46.4	71	15.0	148
3. Drunkard .....	50	33	66.0	17	34.0	10	20.0	7
4. Gangster .....	1427	1150	80.6	277	19.4	80	5.6	197
5. Immigrant .....	28	22	78.6	6	21.4	3	10.7	3
6. Farm Boy .....	252	214	84.9	38	15.1	17	6.7	21
7. Black Sheep .....	137	109	79.6	28	20.4	9	6.6	19
8. Dope .....	6	4	66.7	2	33.3	1	16.66	1
9. Criminal by Accident .....	186	153	82.3	33	17.7	18	9.7	15
Total .....	3000	2258	75.3	742	24.7	258	8.6	484

Figure 16 List of "social types" used by Tibbitts in his revision of the Burgess method. Two of these, "black sheep" and "criminal by accident" are Tibbitts's additions to the original Burgess social types.

activity. As a result, Tibbitts observed, “the self-respect of the family was injured and they desired to have him confined.”<sup>606</sup>

Tibbitts never clearly explains why the classification “ne’er-do-well” fits B’s case, but from the way he tells the story, it seems that the sociologist observed a pattern of numerous criminal offenses, several chances for B to repent and reform, and familial resources allocated to aid him in leading a law-abiding life. In spite of these opportunities, perhaps rare for the average reformatory inmate, B continued to steal. Perhaps this resistance to change given the chance to

<sup>606</sup> Tibbitts, “Success or Failure,” 18.

do so indicated to Tibbitts that B was set in his criminal ways. Still, this perception does not fit with later sociologist-actuary Sam Daykin's definition of the category, used at Joliet around five years after Tibbitts's study. Daykin defines the "ne'er-do-well" as an "irresponsible fellow who ditched school, stayed out late at night, never learned any trade, engaged in petty thievery, rolled dice and had a generally bad reputation in the community."<sup>607</sup> As political scientist Bernard Harcourt notes in *Against Prediction*, the "social type" labels generated by Burgess and those who built on his method were both extremely subjective and categorized along "strongly moral" lines.<sup>608</sup> Researchers were aware of the subjective nature of the categories, but perhaps less aware of the moralizing tone of their descriptions. Though Illinois sociologist-actuaries, including Ferris Laune and Lloyd Ohlin, leveraged critiques of the subjectivity involved in the categorization process, they persisted in using the "social type" factor at least into the 1950s.<sup>609</sup>

The category "criminal type," though constructed in a seemingly straightforward manner to separate the recidivist from the first offender, also left room for interpretation.<sup>610</sup> Tibbitts used Burgess's original criminal types: "first offenders," "occasional offenders," "habitual offenders," and "professional criminals." Like Tibbitts's illustrations of social types, Burgess used case studies to help define each criminal type. His first offender classification applied to men without a criminal record, but was also used for "a few [men] who had been convicted of only one or two

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<sup>607</sup> Definitions probably written by Sam Daykin, "The Illinois Parole Prediction System," 12.

<sup>608</sup> Harcourt, *Against Prediction*, Kindle Location 2211.

<sup>609</sup> For critiques see Ferris F. Laune, *Predicting Criminality: Forecasting Behavior on Parole*, (Evanston: Northwestern University Press, 1936): Introduction; and Lloyd E. Ohlin, *Selection for Parole: A Manual of Parole Prediction* (New York: Russell Sage Foundation, 1951), 53

<sup>610</sup> University of Chicago professor of Criminal Law E.W. Puttkammer would later bemoan this category in an issue of *Parole Supervision News*, a magazine published by the Division of Supervision for about a year before many of its writers left to join the armed forces. Puttkammer writes that "in actual fact there are very few genuine first offenders in any penitentiary. Barring some who have committed crimes of sudden passion... there is very likely close to no real first offender—merely a lot of first convictions, which is a very different thing." E.W. Puttkammer, "A Case for Parole," *Parole Supervision News* 1, no. 2 (January 1, 1942), Box 4, Ralph Lewis Papers, SCRC-UCL.

minor offenses.”<sup>611</sup> The sociologist’s discretion would presumably be used to divide the first offenders with minimal criminal histories from the occasional offender who committed several crimes in a short period of time. Burgess’s first offender, a young man convinced by a friend to participate in a series of stick-ups, is quite similar to his occasional offender, a youth who broke into sheds to steal bottles before escalating to riding in stolen automobiles and participating in one stick-up job.<sup>612</sup>

The biggest differences between the two former inmates lie in the descriptions given by field workers Tibbitts and John Landesco, who interviewed these men when they were out on parole. The first offender, the “well-built, good looking” Frank Stitch, is described as “a mere lad” who worked regularly but fell prey to temptation during “unsupervised leisure time” and “yielded to the call of criminal adventure.”<sup>613</sup> Here, Stitch’s armed robberies are dismissed as a lark. By contrast, occasional offender Salvatore Vito’s crimes are described as the “beginning of [a] stickup career.” Vito also mentioned former nighttime habits that caused interviewer John Landesco concern and that were apparently not present in the cases of those classified as first offenders, including use of alcohol, casual sex, and a lack of discipline that led him to “run around till two or three o’clock in the morning” on a regular basis.<sup>614</sup> For Landesco, these lifestyle considerations in addition to this man’s minor offenses that stretched over a slightly

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<sup>611</sup> Ernest W. Burgess, “What are the Different Types of Paroled Men?,” in *Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Chicago, 1928), 205. At the other end of the scale, the “habitual offenders,” who were “never willing for any length of time to be law abiding” would be separated from the “professional criminals” who made their living from their crimes.

<sup>612</sup> Frank Stitch, Pontiac #3306 (called “Jim” and classified as a first offender in *Workings*), interview by Clark Tibbitts, August 12, 1927, in Ernest Watson Burgess Papers, Box 34, Folder 9, SCRC-UCL. Salvatore Vito, Pontiac #3289 (classified as an occasional offender in *Workings*), interview by John Landesco, August 31, 1927, in Ernest Watson Burgess Papers, Box 34 Folder 9, SCRC-UCL.

<sup>613</sup> Clark Tibbitts, notes on interview with Frank Stitch, in Ernest Watson Burgess Papers, Box 34, Folder 9, SCRC-UCL.

<sup>614</sup> John Landesco, notes on interview with Salvatore Vito, in Ernest Watson Burgess Papers, Box 34, Folder 9, SCRC-UCL.

longer period of time marked this man as an occasional offender rather than a first offender. This decision-making process accounts for details outside of the man's criminal career, and seems partly based in his non-criminal leisure choices—activities that are perhaps morally questionable to evaluator Landesco.

Donald Clemmer struggled with this classification process while working as a sociologist-actuary at the Menard Branch of the Illinois State Penitentiary from 1931 to 1934. As a student, he found that criminology textbooks lacked a precise definition for “recidivism” and that researchers interpreted the term in various ways. For instance, while one might place a prisoner with a history of juvenile delinquency who spent a term at a boys’ correctional school in the recidivist category, another might dismiss that aspect of a man’s record. Even within the Illinois State Penitentiary, Clemmer observed, different members of the professional staff of sociologists, psychologists, and psychiatrists might classify the same man as a first-time offender and a recidivist. Clemmer noted that the professional staffers “diagnos[ed] recidivism, not according to previous record alone, but largely on the basis of personality make-up,” in keeping with Tibbitts’s classification of Frank Stitch.<sup>615</sup>

Though Clemmer’s monograph, *The Prison Community*, is centered on his time at Menard, it is also useful when considering Tibbitts’s inclusion of institutional work assignments in his prediction method. Clemmer describes a hierarchy of jobs within the prison. Low-status jobs at Menard went to men with punishment records and without influence in the institution. Race, too, governed work assignments. Clemmer found that African Americans were generally assigned to the most undesirable, physically taxing work in Menard’s quarry.<sup>616</sup> At Pontiac,

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<sup>615</sup> Donald Clemmer, *The Prison Community* (New York: Hold, Rinehart, and Winston, 1958), 57.

<sup>616</sup> Ibid, 77-78. Clemmer recalled: “From one-quarter to one-third of the six different quarry gangs are made up of Negroes. Usually the most dangerous and unruly men are assigned to this type of work.” Ethan Blue locates a similar hierarchy in Depression-era California prisons. Blue notes that California prisoners’ labor “mimicked many

Tibbitts observed a similar hierarchy. In the reformatory, there were over fifty possible work assignments for each man. The sociologist sorted these work assignment options into groups “according to similarity of responsibility, trust, honor, and required skill” with the aid of a Pontiac employee.<sup>617</sup> While Tibbitts does not outline the reasoning behind choosing prison work assignments as a predictive factor, he might have supposed that certain prison jobs could give men an advantage once released from the institution. Pontiac’s barber shop, much praised in evaluations of the Illinois State Penitentiary system, acted as a vocational school for about seventy of the reformatory’s young inmates at a time. These men had a chance to earn state barbering licenses after completing an apprenticeship in the barber shop under the tutelage of a civilian instructor.<sup>618</sup>

Barbershop jobs, in addition to clerkships, chauffeur positions, and work in receiving and discharge, were highly desirable. Men confined to the reformatory referred to them as “politician jobs,” perhaps because of the level of insight and access the positions offered into the inner workings of the prison, or because of the influence prisoners asserted with officials to get them. Either way, these were groups exhibiting the lowest violation rates at Pontiac, according to Tibbitts. Men holding unskilled jobs akin to Menard’s quarry positions, in Pontiac’s furniture factory, tailor shop, and print shop exhibited the highest rates of violation. Tibbitts found that a process similar to the Menard Branch’s work assignment logic operated at Pontiac, in which “the more reliable youths are selected for certain assignments, while the more disagreeable tasks are

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of the class and race structures of the state’s political economy.” The labor ladder in Illinois prisons seems similar: black prisoners worked the worst jobs and were least likely to be promoted to positions of trust and relative power. Ethan Blue, *Doing Time in the Depression: Everyday Life in Texas and California Prisons* (New York: NYU Press, 2012), 55. See much of Chapter 1: “Work in the Walled City: Labor and Discipline in California’s Prisons.”

<sup>617</sup> Tibbitts, “Success or Failure,” 34.

<sup>618</sup> Illinois Prison Inquiry Commission, *The Prison System in Illinois: A Report to the Governor of Illinois* (Springfield: State of Illinois, 1937), 330.

given to the more hardened criminals.”<sup>619</sup> Black men, placed on Menard’s quarry work gangs and Pontiac’s factories alongside the “most dangerous and unruly men” in the prison, held their job assignments alongside the type of hardened prisoner who might have a police character, a long rap sheet, and a greater likelihood of being returned from parole.<sup>620</sup>

Tibbitts’s prediction method included two additional factors representing a slight innovation to the Burgess method—an innovation seemingly instigated and approved by Burgess himself. Rather than using only the past record of the individual to predict his outcome on parole, the young sociologist’s revision included factors that looked ahead to the prisoners’ circumstances once he was approved for parole. The fundamental difference of these two added elements, parole job and parole community, from Burgess’s original group of factors is neither noted nor expanded upon by either sociologist. The reasons for these additions are unclear. Perhaps Burgess and Tibbitts considered it worthwhile to test these factors’ correlation to parole outcome because the parole board traditionally considered an inmates’ future plans during its decision-making process.<sup>621</sup> Or maybe they included these items because other scholars had previously studied the correlation of inmates’ parole plans to their parole outcome.<sup>622</sup>

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<sup>619</sup> Tibbitts, “Success or Failure,” 35.

<sup>620</sup> Clemmer, *Prison Community*, 78.

<sup>621</sup> The Illinois state parole board had a long history of requiring employers to sponsor prisoners prior to parole, as well as a history of checking up on employers to determine if the jobs they offered were legitimate. See Chapter 1 of this dissertation. In addition to investigating employers to determine the validity of job offers, Clabaugh’s board apparently considered the incarcerated man’s “capacity to fill the job satisfactorily.” Hinton G. Clabaugh quoted in Albert J. Harno, “How the New Parole Board Works,” *Workings of the Indeterminate-Sentence Law and the Parole System in Illinois: A Report to the Honorable Hinton G. Clabaugh* (Chicago, 1928), 82 (footnote).

<sup>622</sup> Criminologists Sheldon and Eleanor Glueck were, at the time of Tibbitts’s research, preparing to publish a study of parolees from the Massachusetts State Reformatory in which they examined the relationship between “post-parole work habits and post-parole criminality.” They also studied the type of neighborhood ex-prisoners lived in during and after parole, and its potential relationship to future criminal status. Tibbitts or Burgess may have heard of this work prior to its publication. Eleanor Glueck and Sheldon Glueck, *500 Criminal Careers* (New York: Alfred A. Knopf, 1930), 272-275. Indeed, the Glueck model, which narrowed the number of predictive factors to seven, became the primary competitor to the Burgess method. The Gluecks studied a group of 510 men who got out of the reformatory in 1921 and 1922, focused on their experiences during the first five years after release. They interviewed the ex-prisoners, collected information from parole and welfare agencies, and researched each man’s family background. The two researchers translated this data into four prediction tables: one for the initial sentencing judge, one for the parole board, one for the parole supervisor, and a final table for sentencing recidivists. In yet

Tibbitts reported his intent to include a new factor relating to prisoners' parole employment to Burgess early in his classification process. Apparently, this addition was made at Burgess's recommendation. The information available in the records, "nature of the business of the sponsor" and the position given to the parolee, was used to sort paroled men into twelve occupational categories.<sup>623</sup> Before parole, incarcerated men had to furnish proof that they had a job waiting for them outside the institution. This was exceedingly difficult, especially during the Depression when jobs were scarce for even men with spotless records. This dilemma prompted one man incarcerated at Joliet-Stateville to respond that the employment requirement was a "detriment and a handicap" to all men seeking parole when asked for an evaluation of the parole rules. This prisoner further commented: "no one is over anxious to give a parolee a job."<sup>624</sup> As discussed in Chapter 4, African American men found it difficult to secure steady work during the Depression even if willing to take on the most undesirable, low-paying, and dangerous jobs in Illinois. This particular parole guideline probably ensured that men of color would spend longer periods of time searching for jobs from prison both before and after they were approved for parole. When black youths from Pontiac finally secured employment during the period covered by Tibbitts's study, they generally were paroled to unskilled positions exhibiting higher violation rates. Tibbitts's inclusion of the "first job" factor further solidified the disadvantages faced by men of color, who had often already racked up a negative mark in the prognostic score for

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another departure from the Burgess method, the Gluecks weighted their factors so as to reflect the percentage of failures in each subcategory classification for each individual. For an explanation of the Glueck's method and their critique of Burgess's prediction model, see Harcourt, *Against Prediction*, Kindle Locations 768-792.

<sup>623</sup> Tibbitts to Burgess, June 17, 1928, 2. The twelve categories are as follows: "no record," "farm," "labor," "factory labor," "skilled," "welfare agencies," "teaming," "mining," "clerk," "porter," "railroad, road," "restaurant," and "barber." Tibbitts, "Success or Failure," 35.

<sup>624</sup> Anonymous incarcerated man #1 quoted in Donald Rasmussen, "Attitudes of Joliet-Stateville Prisoners Toward Parole," (MA thesis, University of Illinois, 1938), 41, in Joseph Edward Ragen Papers, Box 5 Folder 2, Abraham Lincoln Presidential Library.



“previous work record.” These two factors would remain in use in Illinois prediction reports well into the 1950s.<sup>625</sup>

Furthermore, by adding the parole community into a collection of factors that already included the incarcerated man’s old neighborhood, Tibbitts ensured that prisoners of color would accrue an additional negative mark. He seemed not to realize that, for African American youth, this amounted to a duplication of a factor in which they would already receive an unfavorable mark. Residential segregation in Chicago, where many black reformatory prisoners lived before their arrests, meant that black youth leaving Pontiac had no choice but to return to their old, heavily policed neighborhoods. Whether in Chicago or elsewhere, these would invariably be labeled “Negro areas” with corresponding high violation rates that reduced the chance for a swift parole for men of color.<sup>626</sup> This did not go unnoticed in the academic community. Critics of the Burgess method and its revisions pointed to the potential deleterious effects for men of color embedded in prognostic scoring early on. In 1929, criminologist Edwin H. Sutherland briefly questioned the validity of Burgess and Tibbitts’s statistical methods on this basis. He first noted that the two categories the prediction methods were based on, successes and failures on parole, were “probably not entirely different in behavior with reference to law.” In other words, Burgess and his successors accepted the violation records as an indication of actual success or failure without question. Sutherland suggests that a gang member may be more able than a lone offender to hide his violation from a parole officer, or to leverage a strategic bribe encouraging the officer to look the other way. The criminologist also expressed concern about the “biased knowledge” of parole statistics that resulted from discriminatory policing: “It is possible that Negroes may be

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<sup>625</sup> At some point, perhaps in the late 1930s, two versions of the predictive table were in use. One omitted the “first job” and “parole neighborhood” factors for those unable to secure a job and/or place of residence before parole.

<sup>626</sup> Tibbitts, “Success or Failure,” 29.

reported for violation of parole more frequently than white persons when their behavior is actually identical.”<sup>627</sup>

### **“The Nature of the Individual Criminal”: Creating the Illinois State Penitentiary<sup>628</sup>**

Predictive methods remained in the research and development phase until 1933, when the Fifty-eighth General Assembly of Illinois passed five bills relevant to prison administration in the state. When the bills became law on July 1, 1933, the state prisons “lost their legal identity as institutions and became branches of the one *Illinois State Penitentiary*.”<sup>629</sup> This centralization of corrections administration passed alongside other laws designed to help rehabilitate individual convicted offenders, with attention to “their differences, and to the necessity for adapting their training to suit their particular needs and problems.”<sup>630</sup> All prisoners were first committed to the Illinois State Penitentiary (ISP) before being assigned to one of its branches. The task of determining which branch best suited each new prisoner fell to two “diagnostic depots,” one housed at Joliet and the other at Menard. Professional staffers, including sociologists, conducted extensive examinations of each man sentenced to the ISP, slotting him into many of the same categories that would later contribute to the prognostic score sent to the parole board. These institutional experts determined the proper branch assignment for each man based largely on their assessment of his ability to reform. Each incarcerated man’s experience in prison—his access to vocational programming, the comfort level of his living quarters, the type of work he would perform—was determined by his institutional assignment.

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<sup>627</sup> E.H. Sutherland, “Methodological Significance and Limitations of Specific Statistical Methods,” *Social Forces* 7, no. 4 (June 1929), 561-562. This was a major admission for 1929.

<sup>628</sup> Quote taken from Paul L. Schroeder, *The Classification of Prisoners in Illinois Under the Laws of 1933* (Springfield: State of Illinois, 1937), 1.

<sup>629</sup> Henry Horner, “Modern Penology in the State of Illinois,” *Proceedings of the Annual Congress of the American Prison Association* (1936), 17. The five branches of the Illinois State Penitentiary were: Joliet, Stateville, Menard, Pontiac, and the Psychiatric Division.

<sup>630</sup> Schroeder, *Classification of Prisoners*, 1.

A battalion of medical doctors, sociologists, psychiatrists, and psychologists began dividing prisoners into categories as soon as they reached a diagnostic depot. Over the course of three weeks, staffers at the diagnostic depots classified each new male prisoner according to his personality, criminal record, physical characteristics, and psychiatric condition and determined at which branch of the ISP he should begin serving his sentence. The superintendent of each of the two depots, at Joliet and Menard, directed staff in the social investigation and physical, psychological, and psychiatric examination of each new prisoner. Staffers performing social investigations pored over criminal records, compiled family and social histories, located educational and military records, and acquired statements from a State's Attorney for each man. These social investigators—sometimes the sociologist-actuaries—were aided in their efforts by the set of legal papers that accompanied each man to the depot. These included indictment papers, warrants, and a statement of facts in the case signed either by the trail judge or the prosecuting attorney.<sup>631</sup> As a prisoner's social history took shape for diagnostic depot staffers, physicians took blood samples and examined each new prisoner for signs of physical disease. Psychologists administered the Army Alpha examination to gauge each man's "general knowledge, intelligence, educational achievement, and vocational interests." Finally, the psychiatrist stationed at each depot conversed with each new inmate to flag any mental abnormalities and to generally assess the mental condition of the man as part of the intake process.<sup>632</sup> These studies were gathered in each man's institutional jacket file, to be reviewed by the "scientific staff" when deciding which branch of the penitentiary best suited the new prisoner.

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<sup>631</sup> Illinois Prison Inquiry Commission, *The Prison System in Illinois: A Report to the Governor of Illinois by the Illinois Prison Inquiry Commission* (Springfield: State of Illinois, 1937), 308.

<sup>632</sup> Schroeder, *Classification of Prisoners*, 4. See also Illinois Prison Inquiry Commission, *The Prison System*, 454-456.

Based on these initial assessments, men were sent to the appropriate branch of the Illinois State Penitentiary. Men exhibiting “average intelligence” and “habitually criminalistic” tendencies were sent to the Joliet branch, while adult first offenders “who may be expected to adjust themselves to the community when discharged” were transferred from the diagnostic depot to Menard or Stateville. The Pontiac branch housed boys and men from twelve to twenty-six years of age “expected to adjust themselves to the community” when released.<sup>633</sup> As such, the institution emphasized academic and vocational training. Intake depots sent convicted men judged to be “insane” to the Psychiatric Division at Menard. Other mentally ill or “feeble-minded” offenders unable to stand trial were sent directly from the courts to the Illinois Security Hospital at Menard. In a 1936 address to the American Prison Conference, Governor Henry Horner maintained that these classifications and transfer decisions were based on “the assumption that most prisoners at some time will return to the community and therefore their training should be so conducted as to help them adjust themselves to civil life” upon release.<sup>634</sup>

Though life behind bars was undoubtedly miserable for all prisoners, the conditions and programming offered at each of these institutions varied widely. The quality of each prison reflected the quality of its occupants as determined by the ISP. A comparison between Joliet, the branch used for men considered more hardened offenders, and Pontiac, which housed those deemed most likely to reform, is illustrative of these variations. Statistics available concerning the classification and assignment of men by race for the mid-1930s indicate that a greater proportion of African American men were assigned to Joliet-Stateville than to Menard or

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<sup>633</sup> Though the institution housed very young boys, its population was not comprised entirely of first offenders. Some inmates had served time in other reformatories, jails, and houses of correction. The Illinois Prison Inquiry Commission reported that “some [Pontiac prisoners] have criminal records covering long periods of time. Illinois Prison Inquiry Commission, *The Prison System*, 280.

<sup>634</sup> Henry Horner, Address to the American Prison Conference, September 16, 1936, in Henry Horner Papers, 1899-1940 Series I: Gubernatorial Papers, 1932-1940, Box 241 Folder 1, ALPL

Pontiac. Unfortunately, numbers for Joliet and Stateville are combined in all available data—most of which is not classified by race—but the statistics do tell us that the ISP’s diagnostic depots sent significantly lower numbers of black men to Pontiac, where they would find more modern facilities and better academic and vocational training. In 1935, the diagnostic depots at Joliet and Menard sent 1,601 African American men to Joliet-Stateville, a number representing 59% of all men of color received by the Illinois State Penitentiary system that year. Only 16% of black male offenders incarcerated in state prisons that year were sent to Pontiac. By contrast, 51% of white men received at the diagnostic depots were sent to Joliet-Stateville, and 23% to Pontiac.<sup>635</sup>

By the time the Illinois Prison Inquiry Commission submitted its report on the state’s penal facilities in 1937, it recommended that the Joliet branch be “abolished” due to the extremely poor conditions endured by the men living there.<sup>636</sup> A few years earlier, sociologist-actuary Saul Alinsky had observed that the differences between the new prison at Stateville and the old Joliet facilities were “comparable to the difference[s] between a modern apartment house and an old convict ship.”<sup>637</sup> Though Joliet’s cells were constructed to house one person, standard practice in the 1920s and 1930s meant that two men, their unwashed blankets, and hundreds of bedbugs inhabited one tiny cell measuring 6 feet 11 inches long, 4 feet wide, and 7 feet high. There was no indoor plumbing.<sup>638</sup> Prisoners instead used “the bucket system,” carrying their

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<sup>635</sup> Statistics compiled by author and based on Table 6: “Classification by Race of Penal Population,” in Illinois Prison Inquiry Commission, *The Prison System*, 517.

<sup>636</sup> Illinois Prison Inquiry Commission, *The Prison System*, 227. Commission members Henry Barrett Chamberlin, Joseph H. Schlarman, Robert L. Kern, John Prystalski, Roy Best, James J. Barbour, Emmet Moynihan, and Preston Bradley sent their report to Governor Henry Horner on April 15, 1937. The Commission wrote that it approached its investigation “on the theory that the principal aim of the penal institution is the protection of society; that a penitentiary is a prison in which convicts are confined for punishment and rehabilitation—a house of correction” (7).

<sup>637</sup> Saul Alinsky, quoted in Sanford D. Horwitt, *Let Them Call Me Rebel: Saul Alinsky, His Life and Legacy* (New York: Alfred A. Knopf, 1989), 28.

<sup>638</sup> Illinois Prison Inquiry Commission, *The Prison System*, 229. Blankets were washed once a year.

bodily waste from their cells in covered tin receptacles and emptying them in an “enormous cesspool” each morning on their way to breakfast.<sup>639</sup> As Alinsky recalled, “the odor of the cell block makes the unaccustomed visitor stop and sway.”<sup>640</sup> Life was regimented and prisoners worked five and a half days a week, assigned to the textile plant, the tailor shop, the marble and concrete shop, the fiber shop, the mattress factory, or the quarry. Prisoners could also attend school for a few hours per day, up to the eighth grade. Very few of the positions available offered any “opportunities for vocational training,” as most similar jobs in civilian life were “filled by female labor.”<sup>641</sup>

Pontiac’s cells were considerably larger than Joliet’s—even the institution’s smaller cells, which were one foot longer and three feet wider. Each cell had a washbasin and a toilet with running water. Bedbugs plagued Pontiac men and boys, too, but their cells were well-ventilated and well-lit, and their sheets were washed once per week. They could attend school for five full days per week, and complete the tenth grade while incarcerated. By 1935, Pontiac prisoners who completed the eighth grade were eligible to take courses in the branch’s industrial training school. Following a period of industrial training, including instruction in mechanical drawing and mathematics, the prisoner would advance to the industrial training shop. The shop included seven trade training units: auto mechanics, the foundry, sheet metal, woodworking, and the pattern, electric, and machine shops. By Ernest W. Burgess’s assessment, the “best opportunities for industrial and general education” could be found at Pontiac in the late 1930s—available only

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<sup>639</sup> Nathan Leopold would later write in his autobiography, *Life Plus 99 Years* that the Joliet bucket run “epitomize[d] prison” life for him in the 1920s. He describes “the long, silent lines” of men waiting to wash and empty their waste buckets, the “indescribable” odor, and the “agility required to dodge flying spray on windy days.” The following march the men made across the yard to breakfast over “cobblestones worn smooth by countless thousands of shuffling feet and seeming to reek of... human misery,” with no chance to wash their hands, “seemed to be deliberately contrived to humiliate the convict and to make his lot as uncomfortable as possible.” Nathan F. Leopold, Jr., *Life Plus 99 Years* (Garden City: Doubleday & Company, Inc., 1958): 97-98.

<sup>640</sup> Saul Alinsky, quoted in Horwitz, *Let Them Call Me Rebel*, 29.

<sup>641</sup> Illinois Prison Inquiry Commission, *The Prison System*, 268.

to “the first offender with good prospects for reformation.”<sup>642</sup> Still, African American prisoners found it difficult to access the vocational training administrators touted. Memoirist Paul Warren, a former Pontiac inmate, recalled that black prisoners “couldn’t get a good job. The most they could hope for was to be a porter or some guard’s flunky.” The most strenuous and unpleasant work details at Pontiac “were made up largely of Negroes. They cleaned the streets, took care of the garbage and toilet buckets, washed spittoons, and mopped floors.”<sup>643</sup> The same rule applied at Joliet, with its more limited vocational opportunities. Former Joliet prisoner Felix Thomas told Hans Mattick in a 1951 interview that he had been assigned to the paint shop at Joliet, where he was “supposed to learn painting and spraying, but you know, race relations. When I walked in there they gave me a broom, so I didn’t learn anything.”<sup>644</sup>

### **Dr. Laune and Inmate X: Parole Prediction in Theory at Joliet and Stateville, 1933-1936**

The 1933 laws that established Joliet and Menard’s diagnostic depots also provided for the appointment of sociologist-actuaries at each of the three men’s branches of the ISP. Ferris Laune began work at Stateville in the summer of that year, spending much of his time at a desk in the prison’s Records Office compiling prediction reports for the parole board. He quickly developed a rapport with the prisoners working alongside him, and one man brought him down to the prison library. There, this prisoner introduced Laune to ‘thrill-killer’ and former University of Chicago undergraduate Nathan Leopold. Laune discovered that he and the well-educated lifer shared scholarly interests. As such, the sociologist soon found himself making regular visits to the library. Their discussions inevitably addressed Laune’s work at the prison, which greatly

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<sup>642</sup> Ernest W. Burgess, “Parole and the Indeterminate Sentence,” in *The Prison System in Illinois: A Report to the Governor of Illinois by the Illinois Prison Inquiry Commission* (Springfield: State of Illinois, 1937), 606.

<sup>643</sup> Paul Warren, *Next Time is for Life* (New York: Dell Publishing Company, Inc., 1953), 71.

<sup>644</sup> Felix Thomas, interview with Hans W. Mattick, December 4, 1951, p. 3, Folder 64, in Hans W. Mattick Papers, 1944-1972, CHMRC.

interested Leopold, and the two spoke about the Burgess system at length. Laune harbored doubts regarding Burgess's factors, and shared his skepticism with Leopold. They agreed that the weakness of Burgess's system lay in the static nature of the factors that made up his prediction tables, concluding that any forecast made on the basis of "fixed, immutable factors" could "make no allowance for any change in the inmate during his period of incarceration."<sup>645</sup> Leopold would later write in his autobiography that if one accepted the validity of a system of parole prediction that did not consider a man's experience within the institution, one must also conclude that "the entire theory upon which our prison system is based—that of reform and rehabilitation—is valueless."<sup>646</sup> From the conclusions drawn during their early conversations, Laune and Leopold set out to develop a prediction system that could measure the ways men changed over the course of their time behind bars.

As sociologist-actuary, Laune used inmate and civilian assistants to produce a steady stream of case history reports with prediction scores for the parole board while heading an ambitious research program devoted to improving the accuracy of parole prediction techniques. While Laune's assistants Van Vechten and Daykin spent most of their work hours generating reports for the parole board, Nathan Leopold worked closely with Laune, devoting nearly all of his time to research.<sup>647</sup> From the assumption that many prisoners change while they are incarcerated and that what changes about them is their "attitudes, their world outlook," Leopold and Laune hypothesized that an effective method of parole prediction "must include a means of

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<sup>645</sup> This quotation and the account of Laune's introduction to Leopold can be found in Nathan F. Leopold, Jr., *Life Plus 99 Years* (Garden City: Doubleday & Company, Inc., 1958), 253.

<sup>646</sup> *Ibid.*

<sup>647</sup> Leopold was initially credited as co-author of Laune's book, *Predicting Criminality: Forecasting Behavior on Parole*, but the timing of Richard Loeb's murder made it inadvisable for publishers to acknowledge Leopold's integral contributions to the project. Appreciation for Leopold's work can be found in Laune's acknowledgements, where the sociologist writes of Inmate X: "He has been my active co-worker from the inception of the study to its completion, and without him it could not have been undertaken at all." Laune, *Predicting Criminality*, 81.



measuring attitudes.”<sup>648</sup> A change in a prisoner’s attitude towards the world meant a subsequent alteration of his “social adjustment.” The researchers argued that if Illinois’s sociologist-actuaries could measure attitudes over time and pinpoint when changes took place in each prisoners’ worldview, they would be able to determine the optimal time to parole each man. As Laune put it, the “problem in parole work is not *whether* to parole a man, but *when* to parole him.”<sup>649</sup> But the researchers initially wondered how they might measure changing attitudes. Leopold claims to have come up with their hypothesis first. He wondered if his personal ‘hunches’ about which men would succeed on parole and which would fail could be a predictive tool. Did other incarcerated men have hunches of their own, and did their predictions align with his? Leopold remembers that he was fascinated by this potential tool, and wondered if prisoners’ impressions of their fellow offenders could be the key to a new, more accurate predictive system. From Ferris Laune’s perspective, this idea had come up many times in discussion with students of criminology and penology, prison officials, and the men imprisoned at Stateville. He recalls hearing many colleagues and acquaintances state “that if one could get the honest opinion of an intelligent inmate about his fellow-inmate, one would have a better guide than any previously discovered.”<sup>650</sup>

As Leopold contemplated the potential ramifications of his research into parole prediction, he discussed his work in great detail with his friend and former co-defendant, Richard Loeb. During the early 1930s, Leopold and Loeb worked together closely, developing a continuing education program for prisoners who wished to advance their schooling beyond the eighth grade. Leopold perhaps envisioned that they would enjoy a similar collaborative

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<sup>648</sup> Leopold, *Life*, 253.

<sup>649</sup> Laune, *Predicting*, 8.

<sup>650</sup> Ibid.

relationship in the study of parole prediction. He and Loeb were somewhat uniquely qualified to conduct research alongside Laune, as very few prisoners had the level of education required to assist in an academic study. Both trusted and liked Laune, but after years behind bars, they considered themselves members of the convict class.<sup>651</sup> Nathan Leopold and Richard Loeb reasoned that by participating in research that might influence the operation of future parole boards, they could have a hand in alleviating the suffering of prisoners who were compelled by that future board to serve lengthy sentences. In his autobiography, Leopold recalls asking, “Did we, as cons, have any right to have a hand in anything that might work to the detriment of even one con?”<sup>652</sup> After instituting measures to safeguard the identity of the prisoners they were “hunching,” the friends concluded that if they made any scientific contribution to parole policy, it would be beneficial to “society as a whole.” According to Leopold, improving prediction methods would also work in the favor of prisoners, allowing for “the deserving” to profit: “if anyone were harmed, it would be the undeserving; cons as a class would be benefited.”<sup>653</sup>

Their consciences clear, Leopold and Loeb dove headlong into preparations for the study. Like others who studied prediction, Laune planned to identify measurable factors that were

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<sup>651</sup> Despite this conception of himself, Leopold apparently remained on the fringes of prison society for much of the time he spent incarcerated. Nathan Kantrowitz, who worked at Joliet from 1957 to 1963, later recalled that “no inmate I knew trusted Leopold” and that “in order to keep my own contacts with inmates open, I kept my distance from him.” Nathan Kantrowitz, *Close Control: Managing a Maximum Security Prison: The Story of Ragen’s Stateville Penitentiary* (New York: Harrow and Heston Publishers, 2012, Kindle edition), loc. 979.

<sup>652</sup> Leopold, *Life*, 257. Historian Simon Baatz argues that Nathan Leopold wrote *Life Plus 99 Years* “as part of his campaign to win parole” and that the book should be read with that in mind. The book was not published until after the board considered Leopold’s case, but this cautionary note is worth repeating. Baatz argues that Leopold presents himself as a “lovable rogue who constantly struggles, despite adverse circumstances, to improve the life of his fellow prisoners.” Simon Baatz, *For the Thrill of It: Leopold, Loeb, and the Murder that Shocked Chicago* (New York: HarperCollins, 2008): 465. I think that it is probable that Leopold’s intent was to write an account of his life in prison as though everything he did while incarcerated was to make amends for the murder of Bobby Franks by helping others in need. His object, clearly, was to show that he changed while incarcerated, that he felt remorse for his crime, and that he had spent his time at Joliet and Stateville selflessly improving the lives of his fellow prisoners. I am skeptical of Leopold’s portrayal of himself in *Life Plus 99 Years*, but because Laune’s *Predicting Criminality* is solidly academic, I use the autobiography to help with contextual details, to describe the process of formulating the study, and to address the ethical concerns faced by prisoners studying their fellow inmates.

<sup>653</sup> Leopold, *Life*, 257.

highly correlated with either success or failure on parole.<sup>654</sup> But, unlike other studies conducted in Illinois, the method used to identify these factors did not depend on information available in each prisoners' institutional jacket file. Rather, Laune's study relied on first assessing the reliability of different prisoners' hunches (to determine whose hunches were most accurate). Did all prisoners have the same opinions as to which of their fellows would "make good" and which would be returned to the institution? If so, were these accurate? If not, who was best at predicting "parolability"? The researchers determined that Leopold, Loeb, and two other prisoners' estimates were similar, but that Leopold (Inmate X) and Loeb's (Inmate Y) estimates were both most closely related and most closely correlated to Burgess scores. Based on this remarkable correlation and, evidently, the determination that both Leopold and Loeb were trustworthy and exceptionally intelligent, the researchers set out to identify the factors the two friends based their hunches on.<sup>655</sup>

After the researchers determined what these reasonably accurate hunches were based on, they would need to find a way to replicate them—to allow any sociologist-actuary to assess a given prisoner's parolability as if he were Leopold or Loeb judging that prisoner's likelihood of success or failure on the basis of an acquaintance with him. This required some serious introspection from Inmate X and Inmate Y. The two prisoners now needed to determine why

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<sup>654</sup> Like other studies, this one also includes a definition of what constituted success on parole and what counted as failure. These can be found in Laune, *Predicting*, 12-13 and 33-34.

<sup>655</sup> Laune's explanation of why he chose Leopold and Loeb as the best estimators of parolability can be found in *Predicting Criminality*, on pages 15-17. Because Laune did not wait until each of the 49 prisoners for which they made their initial estimates had served three years on parole, he could not compare Leopold and Loeb's predictions with actual outcome on parole. Though one of the central aims of his study was to revise the Burgess method, he considered it "entirely independent" of the hunch method he was testing and thus a good way to objectively understand if inmate hunches would be close to actual outcomes on parole. This was presumably because the Burgess method had already had been tested with some success in Illinois. He therefore judged that Inmate X and Inmate Y's hunches were reasonably valid because they lined up well with Burgess scores for the same cases. Laune does not, however, indicate if either Leopold or Loeb—or even both men—had any familiarity with the Burgess criteria, which they may have been using either consciously or unconsciously when they made predictions for each of the 49 cases.

they thought some inmates were better parole risks than others, to express their risk ideologies verbally. As Laune later phrased this, the second stage of research consisted of “isolating the unit characters which combine to form the concept of parolability,” or which factors comprised a “hunch.”<sup>656</sup> Leopold and Loeb held lengthy conversations—all recorded by a stenographer—about each case they scored. For instance, if Leopold decided that Subject One had a 65% chance of success on parole and Loeb determined that the same prisoner had a 75% chance of success, the two investigators would then attempt to justify their scores to one another. In one such conversation, Loeb indicated that he scored a particular prisoner as a good risk mainly “because of his willingness to work,” describing the man’s enthusiasm for his job in the prison greenhouse. Loeb indicated, however, that one strike against the prisoner was his relationship with and “attitude toward his family,” who were poor and could not come visit often. Loeb criticized the subject for complaining when his parents did not enclose money with their letters, concluding that “all in all he seems to care for his folks chiefly for what he can get out of them.”<sup>657</sup>

Perhaps Loeb, who then had money for all the luxuries a prisoner could acquire, never stopped to consider the financial precarity of this former wage earner who might not have had the funds to pay for necessities like edible food or physical protection at Stateville. In the early 1930s, three gangs divided along ethnic lines controlled the prison, forcing unaffiliated inmates to keep their leaders and members in food from the commissary and beating prisoners who were unable or unwilling to pay. The gangs also controlled a booming trade in goods and privileges behind bars, selling narcotics, alcohol, properly-cooked food, and civilian garb to any prisoner

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<sup>656</sup> Laune, *Predicting Criminality*, 19.

<sup>657</sup> *Ibid.*, 20.

who could pay.<sup>658</sup> The inmate evaluated by Leopold and Loeb evidently was short of cash to appease the gangs and purchase their goods. Leopold scored this same man slightly lower than Loeb, but for a similar reason: the prisoner's expensive tastes and the potential financial difficulties he might experience upon release as a result. When discussing the case, Leopold asked Loeb, "have you stopped to consider how fond he is of clothes?" As the prisoner in question did not have the education necessary to secure a white-collar position upon release, Leopold argued that he might be tempted back into crime by the "\$100 suits" or "\$5 neckties" that would be out of reach for someone earning only fifteen or twenty dollars per week.<sup>659</sup>

Laune theorized that over the course of informal debates like this one the reasoning behind the hunches would emerge and a predictive method could be outlined. Leopold, Loeb, and Laune soon had a list of 42 factors, some positively weighted and some negatively weighted, and others which could be either positively or negatively weighted depending on the circumstances of the case.<sup>660</sup> Many of the factors that comprised Leopold and Loeb's hunches

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<sup>658</sup> According to Joseph Ragen's biographer, Irish prisoners and Italian prisoners had their own gangs, while "a motley assortment of desperadoes" made up a third gang, the Powerhouse Outfit. See Gladys A. Erickson, *Warden Ragen of Joliet* (New York: Dutton, 1957): 42. Also see "Warden Tells of Breaking Up Convict Gangs: Ragen Testifies Before Horner Commission," *Chicago Daily Tribune*, February 20, 1936, p. 4. "Prison a Homey Club with Dues, Felons Declare," *Chicago Daily Tribune*, February 21, 1936, p. 3.

<sup>659</sup> Laune, *Predicting Criminality*, 20.

<sup>660</sup> These factors were soon narrowed to the following 41: "excessive interest in clothes," minus; "stupidity," plus or minus; "timidity," plus or minus; "industry," plus; "sex-craving," minus; "white lights," or interest in nightlife in cities and towns, minus; "family broken," minus; "lack of love for relatives," minus; "family ties," plus; "learned lesson," plus or minus; "previous hoodlum activities," minus; "recidivism," minus; "rural type," plus; "previous work record," plus; "happily married," plus; "character," plus or minus; "pleasing personality," plus; "sharp practices," meaning a person's drive to "beat the other fellow on any kind of bargain, deal, or business venture," minus; "emotional instability," minus; "shrewdness," plus; "good job in prison," a factor considered when a man had such an easy time in prison that he could not be expected to fear returning to the institution, minus; "gangster," minus; "critical qualities," plus; "selfishness," plus; "trade," which referred to anything the man had learned in prison that would allow him to find a good job on the outside, plus; "conceit," minus; "phlegmaticness," referring to a prisoner who "maintained a balanced attitude towards others and towards events in his own life," plus; "argumentativeness," minus; "outside environment," plus or minus; "minor racketeering," minus; excessive "love of comfort," minus; "age," plus or minus; "working ability," plus or minus; "break in criminal record," plus; "regligiosity," plus; "wanderlust," minus; "attitude toward future," plus or minus; "length of time to be served," plus or minus; "tendency to be an agitator," minus; "criminal activity in family," minus; and "physical defect," minus. Some factors, such as a break in the prisoner's criminal record, were always given a positive score when relevant, while others were always scored negatively if applicable. If certain factors were not applicable, it seems they were

were similar to the Burgess factors and would be retained in predictive models used by Illinois, including the prisoner's age at the time of his offense, his criminal history, and his family background. Leopold, Loeb, and Laune's predictive factors built on Burgess's system in two major ways. First, seemingly in lieu of the Burgess category "social type," Laune's system included a large number of factors related to the prisoner's personality and character traits. The descriptions accompanying each of these factors indicate that Laune intended to measure the prospective parolee's ability to navigate social situations, which seems fitting for a predictive system designed to replicate the observations and judgments of an acquaintance. The description for "argumentativeness," for example, states that an "individual persistently engaged in arguments" might "strike difficulties on account of his trait," such as losing his job for quarreling with his employer.<sup>661</sup> Second, Laune accounted for change over time. He did not use the static portrait of each prisoner captured by his institutional record—his system attempted to assess men as individuals immediately before their board hearings, which ideally would reward personal growth that occurred within the institution. Moreover, Laune argued that "perhaps the most important single factor" of Leopold and Loeb's hunch assessment was the "learned lesson," or what the man would take away from his experience behind bars. Based on Laune's description, it seems this factor could be scored neutrally, positively, or left blank. A prisoner earning a plus in this category might have learned a moral lesson, but the lesson could also be a practical one, such as in a case where a man determined that he would not break the law because it was a "losing proposition" that was too risky and would not bring a great profit. Individuals were only

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simply skipped over in scoring each prisoner. For instance, if a given inmate had no physical defect, this would not count as a plus that might make him more parolable, but would be taken as a neutral factor. Neutral factors were used in later iterations of the predictive model, notably those tested and advanced by Lloyd Ohlin. Laune, *Predicting Criminality*, 20-26. Lloyd Ohlin, *Selection for Parole: A Manual of Parole Prediction* (New York: Russell Sage Foundation, 1951), 52.

<sup>661</sup> Ibid, 24.

given minus scores in cases where “the prison experience has had no effect at all or a deleterious effect.”<sup>662</sup> The scoring system that included different combinations of plus, minus, and blank ratings proved difficult to implement, so Laune compiled a new list of 54 “single-signed favorable factor[s],” which were eventually revised down to 36 factors.<sup>663</sup>

To translate these hunch factors into a predictive tool, Leopold and another prisoner involved in the study (referred to as “investigator W”) developed 1,601 yes or no questions designed to score each prisoner according to the predictive factors identified. They then devised a questionnaire composed of these queries calibrated both to generate a prognostic score for the prisoner and to check the veracity of his answers. A suggestion from Burgess, who read over the questionnaire, caused Laune to add 10 questions designed as an additional check on each prisoners’ truthfulness. These questions were ones in which “the true opinion of the inmates is directly at variance with what they conceive to be the proper opinion to express for their own benefit.”<sup>664</sup> Over the course of testing the efficacy of this questionnaire, investigators soon found their new instrument unwieldy and impractical.<sup>665</sup> The institution would never be able to allot the time and labor necessary to administer such a lengthy set of questions to each prisoner eligible for parole and then to evaluate each man’s test results. Laune constructed an abridged version of

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<sup>662</sup> Ibid, 22.

<sup>663</sup> Ibid, 32-33, 70.

<sup>664</sup> A few examples are (1) “Have you ever broken a prison rule?” (2) “Have you liked every guard and official with whom you have come into contact?” and (3) “Do you think all the meals served here are good?” Presumably, the prisoner willing to lie on the questionnaire would answer “No” to the first question and “Yes” to the two subsequent questions. According to Laune, these responses would constitute obvious lies because “every inmate or very nearly every inmate has at one time or another broken a prison rule,” “it would be difficult to find a prisoner who had never... received food other than that served him at the table,” and because prisoners found it advantageous to “pretend complete submissiveness and satisfaction with existing conditions.” Ibid, 41.

<sup>665</sup> The investigators tested their questionnaire on a “Truth Group” comprised of 57 prisoners who knew the purpose of the 1701 questions and had pledged to answer each question honestly and on four “Random Groups” of 57 prisoners who made no such promise. Laune informed members of the “Truth Group” that their answers would not be used to their detriment, while members of the “Random Group” believed that Laune would use the answers they gave in preparing his report for the Parole Board. See George B. Vold, “Predicting Criminality by Ferris F. Laune,” *Journal of Criminal Law and Criminology* 28, no. 1 (May-June, 1937): 151-152.

the questionnaire, comprised of the 159 questions judged most likely to match up with Leopold and Loeb's hunch assessments. The Illinois State Penitentiary never used this questionnaire in any official capacity, perhaps because of its impracticality or because other scholars of parole prediction expressed serious doubts about Laune's study and the new predictive system he presented in his book.<sup>666</sup> In one particularly scathing review, University of Minnesota sociologist George B. Vold wrote that while the research might be useful to those studying questionnaire construction, "as a method of predicting criminality it is far-fetched and elusive."<sup>667</sup> Moreover, Ernest W. Burgess stated in an interview that unpublished research conducted in Illinois indicated that predictions generated by Laune's system were no more accurate than those determined by Burgess's original 27-factor system.<sup>668</sup> Still, Leopold and Laune's focus on the individual's experience in prison and his attitude towards release would resurface in the Level of Service Inventory-Revised risk assessment model in the 1970s.<sup>669</sup>

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<sup>666</sup> For lukewarm reviews, see Robert Kingsley, "Predicting Criminality, by Ferris F. Laune," *Southern California Law Review* 12 (1938), 121-122; Arthur L. Beeley, "Predicting Criminality, by Ferris F. Laune," *American Sociological Review* 2, no. 5 (October 1937), 799-800. For an extremely negative review, see William Hurwitz, "Predicting Criminality," *Oregon Law Review* 18, no. 2 (February, 1939), 153-155.

<sup>667</sup> Vold, "Predicting," 152. He followed this jab up with an analogy, musing that Laune's work reminded him of a story of a farmer with pigs for sale who, "lacking a scale on which to weigh the animals, constructed a balance, put the pigs on one end and piled rocks into a box on the other end, both buyer and seller taking every precaution to see that an exact equilibrium was obtained—and then guessed at the equivalent weight of the rocks."

<sup>668</sup> Norman Bruce Johnston, "A Reconsideration of Certain Factors in the Prediction of Success or Failure on Parole from the Illinois State Penitentiary, Joliet" (MA diss., University of Chicago, 1951), 28. Later, Lloyd Ohlin compared Laune's predictive system with Burgess's and discovered that Burgess's system was more accurate. See Karl F. Schuessler, "Parole Prediction: Its History and Status," *Journal of Criminal Law and Criminology* 45, no. 4 (Nov. 1954-Dec. 1954), 430.

<sup>669</sup> The Level of Service Inventory-Revised (LSI-R) was first developed and used in Canada in the late 1970s. By the 2000s, almost every American state used this risk assessment tool in some stage of the carceral process—"for the security classifications of prison inmates, for levels of probation and parole supervision" or to help determine a prisoner's fitness for parole. The assessment is comprised of 54 questions, which address both unchanging factors, such as criminal history, and dynamic factors subject to change, like those involving an individual's emotions. The questions are divided into ten categories: (1) criminal history; (2) education/ employment; (3) financial; (4) family/ marital; (5) accommodations; (6) leisure/ recreation; (7) companions; (8) alcohol/ drug problems; (9) emotional/ personal; and (10) attitudes/ orientation. The questions in the attitudes/ orientation section gauge the individual's attitudes toward crime, convention, his sentence, and the prospect of supervision on parole or probation. See Harcourt, *Against Prediction*, Kindle Loc. 986 and Rebecca Richardson, "Minding the Gap: An Evaluation of the Potential Impact of Evidence-based Sentencing on Social Inequality" (PhD diss., University of Maryland, College Park, 2018), Appendix B.



While Laune and the other sociologist-actuaries employed at the diagnostic depots recognized the need for “a new criterion of parolability,” they retained confidence in the basic premises of the Burgess system. Indeed, they determined the accuracy of the hunch system by comparing it to results obtained using the Burgess method. Like Burgess, Laune believed that criminality was not a psychiatric problem—that there was no such a thing as a ‘born criminal’—but rather that society itself forged the criminal. “Criminality,” Laune wrote, is “a social problem.”<sup>670</sup> Sociologists, rather than psychiatrists, needed to diagnose the causes of criminality in each individual and determine the extent of that individual’s reformation before parole. With this theoretical basis in mind, and understanding that his own research into parole prediction could not show results until his subjects of study had completed a three-year period on parole, Laune continued to use the Burgess system.

#### **“Cursed by God:” Sociologist-Actuaries, Prisoners, and Prediction in Practice, 1934-1942**

Though ISP sociologist-actuaries devised new methods of parole prediction, quibbled over categories, and constantly evaluated the Burgess method, the 27 prediction criteria remained static from 1934 to at least 1940 for Joliet-Stateville and Menard, and into the 1950s at Pontiac.<sup>671</sup> Many of the Illinois sociologist-actuaries who worked at the three major branches of the ISP were current or former Burgess students, including Lloyd Ohlin, Clark Tibbitts, Ferris Laune, Purnell Benson, Hans W. Mattick, and Daniel Glaser. These men were expected to conduct research into predictive methods, but the bulk of their duties involved interviewing

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<sup>670</sup> Ibid, 5.

<sup>671</sup> Expectancy tables were revised during this time period. Experience tables are “summarized arithmetical tables expressing the exact numerical percentages of violation of parole observed for homogenous groups of parolees... graduated by the number of favorable factors possessed by the prediction groups.” An experience table might tell you that parolees with 14 favorable factors (out of 27) belonged to a group in which 43% were expected to violate the parole agreement. Definition of experience tables borrowed from Sam Daykin (?), “The Illinois Parole Prediction System,” 22, in Ernest Watson Burgess Papers, Box 35, Folder 7, SCRC-UCL. Ohlin developed a 12-factor prediction method for Joliet-Stateville in the 1940s, but I am unsure when this was actually implemented at Joliet-Stateville and Menard (the two adult institutions), as the surviving accessible prediction reports from the 1940s that I have been able to locate are all from Pontiac.

prisoners before parole board hearings and using the information to supplement institutional records in the preparation of life histories and actuarial prediction reports for the board. Sociologist-actuaries also verified information obtained in interviews with prisoners by writing to their friends, families, former employers, and schools they had attended. Hans W. Mattick estimated in 1953 that he spent over half of his time at Joliet-Stateville on these tasks, while devoting 22% of his working hours to “quantitative and qualitative research in the field of criminology and particularly parole prediction techniques.”<sup>672</sup> This time balance was likely similar to that of sociologists working in the 1930s and 1940s, including Tibbitts, Laune, Benson, Courtlandt Van Vechten, Thomas Hutton, Gordon R. Beers, and Sam Daykin. The limited amount of time that could be devoted to revision of the Burgess method, the trust sociologist-actuaries placed in their former teacher, and the discovery that several new prognostic instruments developed by researchers were no more effective than Burgess’s may have accounted for this stagnation.

Sociologist-actuaries provided the parole board with qualitative assessments of potential parolees in addition to the prognostic scores—likely because they intended the prediction report to offer up an explanation of their professional opinion in each case as a supplement to the other materials accessible to the board. They intended for the report to guide decision-making in each case rather than determine it. The sociologists working at each prison knew that the largely politically-appointed board members could not evaluate the materials the institutional jacket files with a trained eye, and thus endeavored to provide them with a professional evaluation of each prisoner’s history. Though Mattick claimed decades after his stint as sociologist-actuary that “it was always a mystery” to him if the parole board paid attention to the prediction reports, while

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<sup>672</sup> Hans W. Mattick, “Position Classification Change Request and Allocation,” State of Illinois Civil Service Commission, November 10, 1953, in Box 180, Folder 1, Hans W. Mattick Papers, 1944-1972, CHMRC.

he was on the job he considered the reports critical to the operation of the parole system. He wrote in 1954 that he feared that the state would eliminate the sociologist-actuary position and parole decisions would be made “on a completely irrational (or worse) basis.” Mattick saw himself and his fellow sociologist-actuaries as men who fought “the good fight—for what justice, truth, beauty, and professional guidance we pitiful... few can impart to a badly mismanaged business.”<sup>673</sup> The qualitative information provided in the prediction report not only elaborated on the information included in the quantitative score, but could also serve as a summary of the more relevant materials included in the prisoner’s jacket file. Sociologist-actuaries in the early 1940s included a short description of the prospective parolee’s crime, criminal record, educational history, previous employment, and family background, as well as an assessment of his neighborhood, friends, relationship status, and plans for parole.

Many prisoners recognized the addition of the sociologists and mental health professionals within the diagnostic depots—but opinions as to the effect of these additions to the prison bureaucracy varied among those incarcerated. Some prisoners dismissed the restructuring and use of the predictive method as mere cosmetic change. These men criticized the board for failing to act on the recommendation of social scientists, suggesting much like Burgess, Bruce, and Harno that the key to an impartial parole board lay in scientization and the selection of board members from the professional classes. Others argued that reforms rooted in social science only proved harmful to incarcerated men. They worried that they fell into categories viewed unfavorably by the parole board, and that this would leave them behind bars as the whiter, wealthier, and better educated among the incarcerated received ten dollars and a handshake from the warden as they walked out the prison gates.

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<sup>673</sup> Hans W. Mattick to Gordon R. Beers, February 16, 1954, Box 180, Folder 1, Hans W. Mattick Papers, 1944-1972, CHMRC.

Prisoners who believed in the work of the diagnostic depots also believed that the parole board functioned primarily as a political entity. If the men who ran the board and the prisons always had their eyes on the next election and thought more deeply about how parole decisions affected the governor than about what was right for prisoners themselves, then Illinois's carceral bureaucracy would never treat social ills and "reclaim society's misfits." The state's penitentiaries needed to begin this work of "reclamation" from the moment each new inmate donned his uniform. Indicating little faith in the diagnostic depots as presently organized, several Stateville prisoners demanded that the penitentiary ensure that new inmates were diagnosed by "competent psychiatrists," segregated according to intelligence and personality, and put on individualized treatment plans. Others expressed the same sentiment without complex steps, with one prisoner calling for the institution to "segregate by classification the bad ones by themselves and the good ones by themselves."<sup>674</sup>

As Rasmussen's survey focused on the attitudes of prisoners towards parole, most incarcerated men had more to say about reforming the parole board than instituting better mental health care or more conscientious classification procedures at the diagnostic depots. Prisoners who expressed belief in the impartiality and reformative power of the social sciences suggested that the board be comprised of "men and women who are trained for the vocation, such as psychologist [sic], sociologists, and their synonymous [sic] sciences..."<sup>675</sup> The board they dealt with, made up of "vote getters who are real estate men, automobile salesmen, and owners of coal companies," could not possibly make fair decisions in each case, as they had political incentive to listen to inflammatory reporting and mud-slinging candidates for office. When asked to suggest some changes that could improve the parole board's decisions, five men out of 31

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<sup>674</sup> Anonymous Stateville prisoners #18 and #31 as quoted in Rasmussen, "Attitudes," 51, 52.

<sup>675</sup> Anonymous Stateville prisoner #6 as quoted in Rasmussen, "Attitudes," 86.

responding prisoners from F House wrote specifically that board members should be appointed from the ranks of penologists, criminologists, sociologists, and psychologists. Others wrote that current board members displayed their ignorance of “psychological factors” and the “underlying causes of past crime.”<sup>676</sup> Incarcerated men like the survey respondents quoted here praised the sociologist-actuaries and hoped that their work would push the parole board towards fair action in each case. Two prisoners compared judges to parole boards, telling Rasmussen in separate interviews that they preferred for the board to set their sentences because “the judge does not know as much about the case as does the board... He does not have the material collected by sociologists.”<sup>677</sup>

When responding to Rasmussen’s survey and interview questions, others expressed doubt—sometimes even fear—of the board’s professionalized advisors and scientized reform. These prisoners shared the prescient view that anarchist, physician, and advocate for the poor Ben Reitman expressed to sociologist-actuary Courtlandt Van Vechten in the 1930s: “Van, you reformers are cursed by God, everything you touch you make worse.” Reitman made this statement in reference to parole and the indeterminate sentence, which he observed was only lengthening the time men spent behind bars. What might seem sound in theory, the seasoned activist noted, could go very wrong in practice. Those implementing the reforms sometimes came to agree with Reitman, too. By the late 1950s, when Van shared Reitman’s words with Nathan Leopold, he recalled leaving his post at Pontiac in 1936 both because he could no longer face the “inhuman[ity]” of prison and the realization that he did not know what the “alternative” to incarceration might be. He “did not know the answers, and... bowed out in favor of those who

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<sup>676</sup> See anonymous Stateville prisoners #28, #33, #21, #30, #6 as quoted in Rasmussen, “Attitudes,” 78, 81, 91 for examples.

<sup>677</sup> Anonymous Stateville interviewees #1 and #4, as quoted in Rasmussen, “Attitudes,” 173-174. Quotation from interviewee #4.

think they do.” Van had burned out. He no longer had “a goal... [to] believe in and work for,” so he left his post to the next green, idealistic social scientist.<sup>678</sup> Poor pay and long working hours meant that the sociologist-actuaries and mental health professionals tasked with preparing predictive reports to guide the board were typically young, well-educated but relatively inexperienced, and did not stay in their jobs for long.<sup>679</sup> One Stateville prisoner recognized this cycle, noting the parole board’s tendency to take the advice of “some young psychologist that has just graduated from college and thinks he is a past master at diagnosing convicts.”<sup>680</sup> Many of this man’s peers had been incarcerated for long enough to understand Reitman’s assessment of these professional prison workers. Often fresh from college campuses and hoping to cut their teeth on the masses of data awaiting them in prison records, criminologists, psychologists, and sociologists arrived at Stateville with “excellent intentions.” These researcher-workers were fundamentally “well-meaning” men, but ultimately the ideas that emerged from their labors allowed prison administrators to justify keeping men incarcerated for longer periods of time. Rasmussen asked several men incarcerated at Stateville to write lengthy essays on the parole system for inclusion in his dissertation, and one of these prisoners wrote of professional prison workers: “... I have never to hear of one who did not manage, in the course of his progress through prison, to injure rather seriously... someone whom he desired only to help.”<sup>681</sup>

One such essayist advanced a more specific critique of the actuarial prediction method, professing to air “common... convict complaints” about risk assessment. According to this prisoner, many of his fellow “cons” felt that the board’s method of using “favorable and

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<sup>678</sup> Courtlandt C. Van Vechten to Nathan F. Leopold, undated, possibly December 1958, Box 19, Folder 1, Nathan F. Leopold Papers, 1924-1970, CHMRC.

<sup>679</sup> Hans W. Mattick to Robert B. Phillips, February 18, 1954, Box 180, Folder 1, Hans W. Mattick Papers, 1933-1972, CHMRC.

<sup>680</sup> Anonymous Stateville prisoner #17, as quoted in Rasmussen, “Attitudes,” 103-104.

<sup>681</sup> Anonymous Stateville prisoner, “Essay Two,” as quoted in Rasmussen, “Attitudes,” 124-125.

unfavorable factors” to predict parole outcome was not yet dependable enough for practical use. They did not believe that these prognostic scores were reliable enough to separate individuals who would violate parole upon release from men who would not. Declining to release prisoners because they racked up too many unfavorable factors, this essayist argued, was detrimental to incarcerated men and society. Those granted parole “only after serving staggering sentences” may not have been poor risks when first rated by the sociologist-actuary, but would certainly be more inclined to return to crime after a decade or more behind bars.<sup>682</sup> The writer imagined what he considered a typical conversation with a fellow prisoner about actuarial prediction. He noted that convicted offenders tried with accomplices often complained that these rap partners, involved in the same crime, were released before them due to the predictive method. A prisoner who remained incarcerated while his partner won parole might explain why he got more time for the same offense thusly:

“I’ll tell you why. Because they’ve got a system of figuring who’ll make good on parole and who won’t. My folks are poor working stiffs; I’m a Dago; I’m not married; I quit school during the depression and tried to help my old man by getting a job—but I couldn’t find any work, and so I have no working record. So these jerks look on their cards in the sociologist’s office and find that if a man’s parents are poor, if he’s a Dago, not married, and has got no working record—then he’s a bad parole risk.”<sup>683</sup>

This imagined prisoner displays some understanding of the prognostic scoring method he rails against. However, it is clear from this fictional conversation—a stand-in for many conversations the essayist claims to have had—that most incarcerated men were not privy to the list of factors used by the sociologist-actuary. Still, the accuracy of parts of this educated guess made by a prisoner Rasmussen considered particularly “articulate” indicates that many incarcerated men would have had some idea of how they might be rated by the sociologist-actuary. The typical

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<sup>682</sup> Anonymous Stateville prisoner, “Essay Three,” as quoted in Rasmussen, “Attitudes,” 144.

<sup>683</sup> Ibid.

inmate imagined by the essayist recognizes that characteristics of his life related to his impoverished upbringing, his marital status, and his work record will prove detrimental to his risk score. He likely also would have realized that institutional sociologists communicated with police authorities, welfare agencies, schools, and employers to verify whatever account of his life he may have offered during his intake interview. This fictional prisoner knew this and felt trapped by it. But other assumptions the essayist made while conceiving of this example reflect the limitations of Stateville prisoners' knowledge of the sociologist-actuary's methods. For instance, the imaginary prisoner asserts that his Italian ancestry will harm his prognosis. But while an explanation of the factors used in the Illinois parole prediction system indicated that sixteen racial and ethnic identities were associated with parole violation, in practice only "American-Negro" prisoners received unfavorable marks in this category.<sup>684</sup> The imaginary Italian prisoner's economic status, education level, work record, and lack of a spouse would hurt his chances for parole, but his ethnicity would not. Sometime *Chicago Defender* columnist and lawyer William E. Lilly neatly summed up the effect of prognostic scoring on African American prisoners—who likely would have found themselves in the same position as the essayist's fictional inmate, except with one more negative factor on top of the others. Though not privy to details of the work of the sociologist-actuaries, Lilly shared a perceptive view of the parole board

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<sup>684</sup> Sam Daykin [?], "The Illinois Parole Prediction System," 1938 [?], 7-8, in Box 35, Folder 7, Ernest W. Burgess Papers, SCRC-UCL. According to the official description of the "nationality" factor (likely written up in 1938), "American-White," Italian, Austrian, Welsh, "Slavish," and Serbian men should be rated favorably, while "American-Negro," English, German, Irish, Polish, Russian, Canadian, Scotch, Danish, Swiss, French, "Swede," Bohemian, Hungarian, Lithuanian, and Mexican men should receive unfavorable marks. But in over two dozen prediction reports from Pontiac and Joliet-Stateville dating from the 1930s to the early 1940s, the only national-racial origin category ever given an unfavorable rating was "American-Negro." For prediction reports consulted, see Box 35, Folder 8, in Ernest W. Burgess Papers, SCRC-UCL; prediction reports for Charles Barry (September, 1933) and James Betson (July, 1938) in Secretary of State, Executive Section, "Executive Clemency Files," Record Series 103.096, Illinois State Archives; Box 175 in Hans W. Mattick Papers, 1944-1972, CHMRC.



with *Defender* readers in 1935: “Decidedly, [a black man’s] chances to crash the gates are a bit below that of the other fellow.”<sup>685</sup>

### **“Frankenstein Monster of Parole”: Papers, Pop Culture, and the Paroled Man**

Despite the push for standardization of parole decision-making, most prisoners were wholly unimpressed by the changes in board procedure. Many bought into the *Chicago Tribune*’s ongoing narrative of a board vulnerable to patronage politics, and some prisoners argued that the board paroled undeserving offenders for political reasons while holding friendless but deserving men for too long. Though many inmates expressed opinions that mirrored those advanced by the *Tribune*’s editorial board, like allowing trial judges to set prison sentences, they also condemned the press’s undue influence over the board. Incarcerated men envisioned parole board members scared to release any man who committed a crime that had garnered publicity due to the *Tribune*’s relentless reporting.<sup>686</sup> Additionally, the incarcerated participants in Rasmussen’s survey never backed the *Tribune* and other newspapers in supporting “stiff sentences [for] convicts with previous records.”<sup>687</sup> The Stateville men who participated in Donald Rasmussen’s 1937-38 survey bore the brunt of negative publicity directed towards the parole board.

Rasmussen worked in the office of the sociologist-actuary at Stateville over the course of his internship, where he was able to establish a close rapport with seven incarcerated men and assure them that their conversations with him would remain confidential. After six weeks of acquaintance, the young student believed that he had earned the trust of the men, who “began to give [him]... their opinions freely and frankly.” These men also connected him with over 100

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<sup>685</sup> William E. Lilly, “Attorney Airs Features of Illinois Parole System,” *The Chicago Defender*, December 28, 1935, 18.

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<sup>687</sup> “Paroles Given to First Offenders, Hutchens Finds Board Using Discretion,” *Herald and Review* [Decatur], November 21, 1937, 27.

other prisoners who contributed responses to his study of prisoner opinions about parole.<sup>688</sup> Though the dissertation Rasmussen produced contains a range of views of the parole system, many of the incarcerated men surveyed seized on the opportunity to vent about the board in writing. As newspaper coverage of the board's decisions, the Ward-Schnackenberg bill, and crimes committed by paroled men intensified, the parole board began denying most eligible prisoners their parole. Men stuck behind Stateville's walls noted the effect negative press coverage had on paroles, citing "newspaper ballyhoo" as an important factor the board considered when making a decision in any given case.<sup>689</sup> One third of the 81 prisoners who responded to the pertinent survey question believed that newspapers influenced the board's rulings in cases up for parole.<sup>690</sup> One parole violator wrote that the parole board's "attitude shows that they are influenced by the newspapers, especially the *Tribune* from Chicago," while an F House prisoner urged board members to use "their own mind instead of listening to the papers." The man confined to F House noted that many prisoners believed that newspaper coverage of parole proved detrimental to the system: "the convict is human too and can see that they are swayed by the papers..."<sup>691</sup> Another F House resident suggested that the board brought men back to prison for parole violations more frequently "for absolutely nothing" at the time the survey was administered because its members were "afraid of the newspapers."<sup>692</sup>

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<sup>688</sup> Donald Rasmussen, "Prisoner Opinions About Parole," *American Sociological Review* 5, No. 4 (August, 1940), 585. Rasmussen distributed his survey to a total of 126 men who fell into three groups: 47 were selected at random from Stateville's cell house F, 39 were parole violators with average or above average scores on their IQ tests, and another 40 represented a random sampling of men with average or above average scores on their IQ tests.

<sup>689</sup> Anonymous Stateville prisoner #43 from F House sample, as quoted in Rasmussen, "Attitudes," 71.

<sup>690</sup> The question posed to solicit written responses from surveyed men is as follows: "List any additional factors which you think the board takes into consideration [aside from "the offense, previous prison terms, past life of the prisoner, probabilities of again breaking the law, adequacy of punishment, conduct while in prison, and welfare of the prisoner," which Rasmussen already mentioned]," Rasmussen, "Attitudes," 68.

<sup>691</sup> Anonymous Stateville parole violator #31 and anonymous Stateville prisoner #10 from F House, as quoted in Rasmussen, "Attitudes," 72, 86.

<sup>692</sup> Anonymous Stateville prisoner #1 from F House, as quoted in *Ibid.*, 44.

The three “articulate inmates” invited by Rasmussen to prepare longer essays relating their views of parole expanded on the brief critiques offered in other incarcerated men’s written survey answers. One among the “articulate” calculated the potential effect of the *Tribune*’s stories on the reading public, hypothesizing that the constant headlines led citizens to believe “that parole laws are beneficial only for the criminal; that for society they are a deadly and constly [sic] menace.” This incarcerated writer further described the “metropolitan dailies”’ description of the parole system as a cycle, in which men were “released after serving ridiculously short terms, to go forth and renew predatory activities.”<sup>693</sup>

The parole board shrank away from releasing men with time remaining on their maximum sentences when the *Chicago Tribune* railed against board decisions (Figure 17), provided extensive coverage of every crime committed by a parolee in the city, and constantly published the names and criminal records of recent releasees. This press coverage only escalated in the wake of the murders of three Chicago policemen in the winter of 1936-1937, allegedly perpetrated by parolees desperate to evade re-incarceration. These killings pushed state legislators to draft the Ward-Schnackenberg bill (HB 382), a parole reform plan allowing the trial judge to determine the minimum and maximum sentence for each convicted offender in their courtroom. The board would then grant paroles according to the minimum and maximum terms set by the judge.<sup>694</sup> Concerned citizens among Chicago’s educated elite, hailing from social welfare organizations including the Chicago Crime Commission and the Citizens’ Association of Chicago, released resolutions and sent public letters denouncing the Ward-Schnackenberg bill (HB 382). Howard Van S. Tracy, President of the Citizens’ Association of

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<sup>693</sup> Anonymous Stateville prisoner, “Essay Three,” as reproduced in *Ibid.*, 134. Description of essayists as selected from ranks of “articulate inmates” found in *Ibid.*, 122.

<sup>694</sup> “Four Out of Ten Violate Parole, Says Legislator: Schnackenberg Refutes Board’s 13 Pct. Claim,” *Chicago Daily Tribune*, May 15, 1937, 2.

Chicago, wrote an open letter to the *Tribune* in June, 1937, arguing that the “theorists” behind the bill were “newspapers whose views are not supported by a single civic organization in Chicago.” Rather, legislators backed HB 382 because the press “created a sort of Frankenstein monster of parole.” Other prominent figures, including Ernest W. Burgess and members of the Executive Committee of the Chicago Association of Commerce, concurred.<sup>695</sup>

The bill, of course, was in keeping with the risk ideology promoted most visibly by the *Chicago Tribune*. The paper sold sensational crime stories that never failed to mention a suspect’s parole status and consistently condemned the parole board for releasing men convicted of violent crimes, with lengthy criminal records, or previous parole violations.<sup>696</sup> Despite protests from prominent citizens’ organizations, the Ward-Schnackenberg bill received dedicated and often front-page support from the *Chicago Tribune* during the summer of 1937. Through its news and editorial articles, the *Tribune*, the politicians it quoted, and the papers aligned with it promoted an alternative view of criminal risk assessment far from the holistic approach favored by Illinois sociologist-actuaries. According to this view, the nature of the prisoner’s crime and the extent of his criminal record were central markers of his risk to the community. The paper maintained, as did Chicago’s Chief of Detectives John L. Sullivan, that parole should be granted only to first offenders, not to second and third offenders who “know all the tricks” to get out of

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<sup>695</sup> Howard Van S. Tracy to Editor of the Voice of the People, *Chicago Tribune*, June 12, 1937, in Ernest Watson Burgess Papers, Box 4, Folder 10, SCRC-UCL. “Resolutions Unanimously Adopted by the Executive Committee of the Chicago Association of Commerce on June 11, 1937,” in Ernest Watson Burgess Papers, Box 4, Folder 10, SCRC-UCL. Ernest W. Burgess, “Voice of the People: Prof. Burgess on Parole Reform,” *Chicago Daily Tribune*, May 19, 1937, 14. Burgess also scribbled a less diplomatic note to himself as the Ward-Schnackenberg vote approached: “The theory of penology set forth on the editorial page of the Tribune is antiquated.” “Untitled note,” in Ernest Watson Burgess Papers, Box 4, Folder 10, SCRC-UCL.

<sup>696</sup> See, for example, “Evils of Parole,” *Chicago Daily Tribune*, July 14, 1933, 14; “Sloppy Parole,” *Chicago Daily Tribune*, October 22, 1935, 12; “13 Repeaters Among 80 Freed on Parole During November,” *Chicago Daily Tribune*, December 5, 1936, 8; “Parole: Theory and Fact,” *Chicago Daily Tribune*, December 6, 1938, 14; and George Wright, “Nick Berdnick: Exhibit ‘C’ in Parole Errors,” *Chicago Daily Tribune*, December 11, 1938, 12.

prison and continue their criminal careers.<sup>697</sup> Parole, many editorial boards concluded, was “strongly defended in theory” and had “miserably disappoint[ed] in practise [sic],” as so many of the “failures forced on public attention” demonstrated.<sup>698</sup> Though some of the state’s periodicals defended the parole board and opposed HB 382, the *Tribune* and other newspapers clamored for its passage and the institution of a different kind of risk assessment.

Many of the newspaper editorial boards that supported the Ward-Schnackenberg bill expressed a lack of trust in the social-scientific methods used to generate actuarial risk scores, and instead called for a simpler assessment of the offender’s risk to society. The parole system’s belief in its risk scores were premature, charged the Decatur *Herald and Review* in an editorial: “It is apparent that we do not yet know as much as we ought to about the classification of offenders for parole...” No “convenient psychological test” or infallible “set of standards” existed to differentiate men who would make good from those who would reoffend.<sup>699</sup> All the “systems, regulations, theories and statutes” in the world could not “analyze individual characters which are as different as individual faces,” *Herald and Review* editors reiterated a year later.<sup>700</sup> The Moline *Dispatch* also criticized the work of the sociologist-actuaries, claiming that though parole officials believed that they could judge when a prisoner’s “punishment has been sufficient or reform complete,” the “grist in the parole mill” proved otherwise.<sup>701</sup> Instead of using social scientific methods and developing “theories of criminal personality,” supporters of the Ward-Schnackenberg bill insisted that the prisoner’s offense should serve as an index of his risk to the public. As one legislator articulated, “the gunman will return to his gun and the

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<sup>697</sup> “Parole System a Failure, Says Detective Chief: Sullivan Favors Letting Judge Set Sentence,” *Chicago Daily Tribune*, May 18, 1937, 2.

<sup>698</sup> “Where the Fault Is,” *Herald and Review*, January 23, 1935, 6.

<sup>699</sup> *Ibid.*

<sup>700</sup> “Going Straight,” *Herald and Review*, June 13, 1936, 4.

<sup>701</sup> “Amendment of Parole Law,” *The Dispatch*, June 24, 1937, 10.

burglar to the breaking and entering of our homes.”<sup>702</sup> The murder of policeman Arthur Sullivan by parolee Joseph Schuster should be the last word on the present parole system and a guide to future decision-making. The *Tribune* summed up its risk ideology in one short anecdote in response to the crime:

Schuster, the paroled convict who killed Policeman Sullivan, was sent to Pontiac for the crime of robbing and shooting a bank messenger. The shooting was an index to his character. It indicated when might happen again and prophesied what did happen when the policeman was shot down.<sup>703</sup>

Though Governor Horner vetoed the Ward-Schnackenberg bill, the parole board responded to the media outcry. In 1938, the number of men paroled from Pontiac, Menard, and Joliet-Stateville decreased dramatically. Though statistics are unavailable for 1937, Figure 2 shows that the number of men paroled during 1936 reached a high of 2,626, only to drop down to just 492 in 1938.<sup>704</sup> Some state newspapers praised this reduction, with the *Peoria Star* writing that “the rumpus raised by the people, attorneys, judges, and members of the legislature” over “the parole situation” caused the board to be more cautious. This proved an old adage: “the people get just the sort of government they wish.”<sup>705</sup> The change had a profound effect on incarcerated men and parolees in Illinois, as is demonstrated by Donald Rasmussen’s interview

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<sup>702</sup> “Court vs. Parole Board,” 12 and “Parole in Theory and Fact,” *Chicago Daily Tribune*, December 6, 1938, 14.

<sup>703</sup> “The Killer on Parole,” *Chicago Daily Tribune*, January 17, 1937, 22.

<sup>704</sup> Graph compiled by the author based on statistics from P.J. Barry, “Division of Supervision of Parolees,” *Fourteenth Annual Report of the Department of Public Welfare* (Pontiac: Illinois State Reformatory, 1931), 143; George T. Scully, “Supervision of Parolees,” *Fifteenth, Sixteenth, Seventeenth, and Eighteenth Annual Reports of the Department of Public Welfare* (Springfield: State of Illinois, 1935), 343; W.C. Jones, “Division of Pardons and Paroles,” *Nineteenth Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1936), 506; W.C. Jones, “Division of Pardons and Paroles,” *Twenty-First Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1938), 622; W.C. Jones, “Division of Pardons and Paroles,” *Twenty-Second Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1939), 568-569; W.C. Jones, “Division of Pardons and Paroles,” *Twenty-Third Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1940), 887; W.C. Jones, “Division of Pardons and Paroles,” *Twenty-Fourth Annual Report of the Department of Public Welfare* (Springfield: State of Illinois, 1941), 500-501.

<sup>705</sup> “From Other Editors: Decrease in Paroles,” reprinted from the *Peoria Star* in *The Decatur Daily Review*, January 17, 1938, 4.

and survey responses, collected during the summers of 1937 and 1938—when the number of prisoners released by the parole board dipped dramatically.

These newspaper representations of parolees mirrored front-page stories run in other states and seeped into popular culture, perhaps most notably with the RKO Pictures film *Don't*

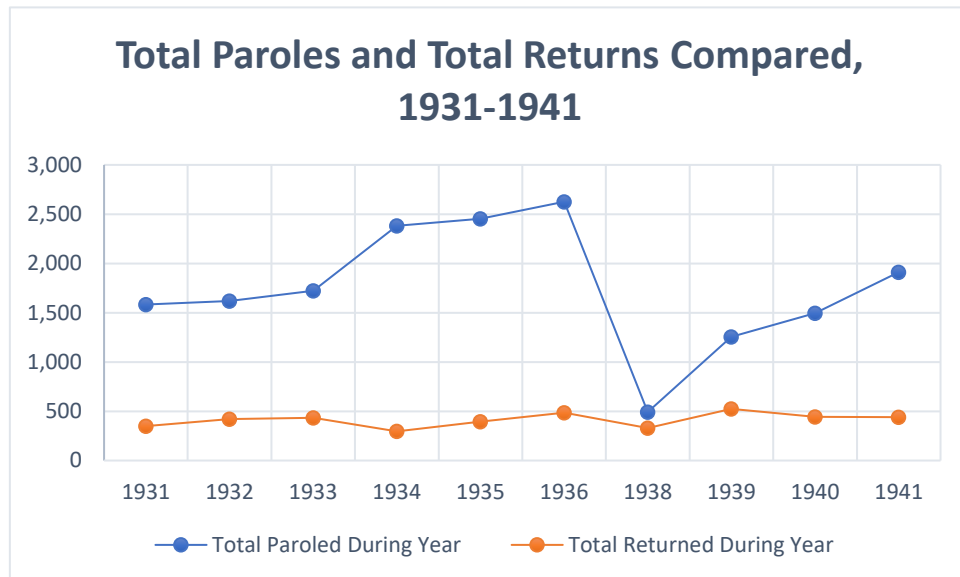


Figure 17 Total number of men paroled from Pontiac, Joliet-Stateville, and Menard as compared to the number of men returned for parole violations. Note that for the year 1938, the number of men granted paroles barely exceeds the number returned.

*Turn 'Em Loose*. As *The Washington Post* reported in July, 1936, film studios increasingly mined newspaper headlines for plots, realizing “that Mr. Reading Public and Mr. Theater-going Public are one and the same.”<sup>706</sup> *Don't Turn 'Em Loose* offers one such headline-based plot—turning on the “evils of the [parole] system.”<sup>707</sup> The film lays a façade of “investigation, reform, and exposé” over the top of the usual shoot-‘em-up gangster movie fare, offering a view of the incompetent parole board procedures responsible for the release of dangerous criminals.<sup>708</sup>

<sup>706</sup> “Film Studios Watch for Plots in News: Current Snake Murder Case Has Scenarists Much Excited,” *The Washington Post*, July 19, 1936, AA3. *Don't Turn 'Em Loose* is mentioned in this story.

<sup>707</sup> “The Shadow Stage: A Review of New Pictures,” *Photoplay* 50, no. 5 (November, 1936), 69.

<sup>708</sup> Quote from Frank S. Nugent, “A New Gangster Film, ‘Don't Turn 'Em Loose,’ with Bruce Cabot, Invades the Rialto,” *New York Times*, September 26, 1936, 20.

The first scene finds Robert Webster, aka Bat Williams, before the New York State Parole Board pleading for his release with his wife and baby at his side. He vows to go straight and is granted parole. But when he enters his lawyer's car for a ride home minutes later,



Figure 18 RKO poster for *Don't Turn 'Em Loose*, released in November, 1936. Note the tagline for the film: “Parole? Look out for these men! They belong in prison!” Courtesy of IMDB.

moviegoers learn that Bat (Bruce Cabot) is unmarried, his wife and baby mere actors hired for the board hearing. Bat is a “snarling, tight-lipped killer” and the head of a dangerous band of criminals.<sup>709</sup> He returns to his gang and they immediately plan their next job. Two heists, and three murders later, Bat is returned to prison. His family knows nothing of his crimes, believing that their boy Robert Webster is a successful engineer hired for assignments around the world. The tables turn on Bat when his father is appointed to the parole board, objects to Bat’s parole because of his lengthy record, and does a double-take when he finds his son brought in for a hearing, hanging his head and promising

repentance. After talking with his son, John Webster (Lewis Stone) agrees to another parole for Bat, provided he leave town and never contact his family again. The film ends when Bat returns for his sister’s wedding, attempts to pull off a payroll robbery, and is shot by his father while attempting to murder a police officer.<sup>710</sup>

Some reviewers were skeptical of the picture’s hard line against parole boards, treating it as just a new angle on the somewhat tired gangster film genre. If film viewers believed this

<sup>709</sup> Nugent, “A New Gangster Film,” 20.

<sup>710</sup> I was unable to locate a copy of the film online, so this summary comes from Ed Garea, “RKO’s Almost Breakout Star,” Celluloid Club, last modified October 11, 2014, <http://celluloidclub.blogspot.com/2014/10/the-b-hive-dont-turn-em-loose.html>.



portrayal of the parole system, a *New York Times* reviewer deadpanned, they would be “of a mind today to toss all parole boards before a grand jury on charges of veniality, stupidity, and flagrant disregard of law and order.”<sup>711</sup> Others were less skeptical of the film’s message. A Baltimore newspaper described it as an “astonishing picture of flagrant flaws in prison parole systems.” The *Chicago Tribune* concurred, praising the film’s stand “against sentimental parole boards who turn loose on a helpless world confirmed criminals who, for all their sheep-eyed repentings [sic] in jail [sic] intend to keep right on being—confirmed criminals.”<sup>712</sup>

Exaggerated media portrayals of incompetent parole boards and the hardened criminals they released had a very real effect on Illinois prisoners and parolees in the late 1930s. This popular representation of the system, whether for political ends or pure shock-value entertainment, proved dangerous for paroled men, who were at risk of police harassment and return to the penitentiary for minor violations. One returned violator quoted in Rasmussen’s dissertation described his constant anxiety while on parole: “You are assured that your supervisor is just the charmingest fellow, but that the omnipresent chap might pop out of the shadows at the most unexpected times—might be hiding in the next doorway, or lounging in your parlor...” This man felt as though he might be returned at any time, that the prison had kept his blue shirt “with its big black number stamped on it” just waiting for him to slip up.<sup>713</sup> Former parolee Oswald Hooper told Hans Mattick that “parole on the street makes a man a coward, more or less. It gets in his soul.”<sup>714</sup> The threat that unscrupulous parole agents and the Chicago police posed to paroled men was more than a figment of Hooper’s imagination.

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<sup>711</sup> Nugent, “New Gangster Film,” 20.

<sup>712</sup> “‘Don’t Turn ‘Em Loose’ Coming to the Lincoln,” *Afro-American*, November 21, 1926, 13. Mae Tinee, “Photoplay Fires a Broadside at Parole Abuses,” *Chicago Daily Tribune*, November 3, 1936, 21.

<sup>713</sup> Anonymous parole violator quoted in “Essay Three,” as reproduced in *Ibid.*, 146.

<sup>714</sup> Oswald Hooper, interview with Hans W. Mattick, January 13, 1951, 11, Box 175, Folder 3 in Hans W. Mattick Papers, 1944-1972, CHMRC.

## A New Day: On Parole in Wartime Illinois

Just as the board strove to standardize parole decision-making, the Division of Supervision worked to professionalize parole agents, expanding control over the growing number of men in custody outside of prison walls. If a man actually won the approval of the parole board, he would be released to the supervision of one of the state's 53 parole agents.<sup>715</sup> As the prison population increased over the course of the 1920s and 1930s, the number of parolees rose as well, though the number of yearly paroles from the state's prisons and reformatories did not change dramatically (see Figure 1). By the 1930s, men released on parole were required to spend at least three years under the watchful eyes of parole field agents, sworn to apprehend them for any violation "whether it be technical or criminal." Despite this punitive function of the role, the parole agent job description suggests that the Division of Supervision of Parolees in the Department of Public Welfare conceived of the role of the agent as split equally between duties involving advocacy on behalf of the paroled man and duties related to the exercise of state policing power. Agents were charged with protecting the parolee "against peonage," "unscrupulous attorneys," and false criminal charges.<sup>716</sup> A handbook designed to prepare incarcerated men for life on parole encouraged them to "look upon your parole agent as your friend," further stating: "he is a staff for you to lean upon, not a rod ready to punish you."<sup>717</sup> This

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<sup>715</sup> George T. Scully, "Supervision of Parolees," in *Fifteenth, Sixteenth, Seventeenth, and Eighteenth Annual Reports of the Department of Public Welfare* (Springfield: State of Illinois, 1935), 347. Each of these agents managed a caseload of 70-100 parolees, with agents responsible for men living in "delinquent areas" in Chicago given reduced caseloads so they could "devote more time and effort to the men in their care." Henry Barrett Chamberlin, "Concerning Parole in Illinois," *Journal of the American Institute of Criminal Law and Criminology* 26, no. 4 (Nov.-Dec., 1935), 488. The number of persons engaged in parole supervision and adjacent work, such as investigation and juvenile parole work, totaled 94 in Illinois as of 1939. United States Department of Justice, *The Attorney General's Survey of Release Procedures* Volume 4: Parole (Washington: United States Government Printing Office, 1939), 193.

<sup>716</sup> Illinois State Civil Service Commission, *Classification of Positions of the Illinois State Civil Service* (Springfield: State of Illinois, 1935), 81.

<sup>717</sup> Prepared by George T. Scully [actually written by Nathan F. Leopold], *A New Day and How to Make It* (Springfield: State of Illinois, 1934), 8. In a packet of information Leopold sent to the parole board prior to his 1957 hearing, he includes a sort of resume of his prison assignments. On this resume, Leopold lists the official job assignments he held at Joliet and Stateville and tacks onto this a section on "Other Prison Activities for the Benefit

pre-parole handbook can perhaps be excused for presenting an idealized view of parole supervision, for it was written by Nathan F. Leopold, a man who had never experienced parole and who had been incarcerated since he was nineteen years old. Paroled men, by contrast, complained that agents were often incompetent or corrupt. They claimed that field parole agent positions were given to supporters and friends of state politicians in return for services rendered—part of the patronage system. One prisoner suspected that parole agents were “all on the make,” just waiting for a parolee to slip up so they could demand a bribe, while another opined that the agents were “of the lowest sort” and were often former prison guards.<sup>718</sup> Leopold’s pamphlet portrayal of the parole experience stands in stark contrast to the anonymous prisoners’ assessments of the parole system Donald Rasmussen recorded just a few years later.

Leopold’s manual included stories designed to illustrate that the parole agent was “always more than anxious to give the parolee the benefit of the doubt,” that he would act almost like a father figure to the ex-prisoner. The booklet advised the paroled man to approach his “parole agent without hesitation when difficulties arise; follow his advice; accept him as your friend and protector.” The two parolee-agent relationships Leopold touted as examples both involved potential pitfalls a paroled man might encounter when beginning or returning to a romantic partnership upon release from prison. The wisdom of the older parole agent is the topic of the first, in which a young man comes to the agent asking permission to get married. The agent asks the man if the lady in question knows he is on parole. When the parolee admits he has not told her for fear of rejection, the agent suggests he bring her to the parole office. There, the

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of Others.” Number 8 on that list reads “Writing a parole booklet (“A New Day and How to Make It”) for the Parole Supervision Dept., 1933.” Nathan F. Leopold, Jr., “Nathan F. Leopold, Jr.,” in folder containing “Supplementary Material to Board,” Box 37, Folder 5-7, Nathan F. Leopold Papers, 1924-1970, CHMRC.

<sup>718</sup> Anonymous prisoners #2 and #7, as quoted in Donald Rasmussen, “Attitudes of Joliet-Stateville Prisoners Toward Parole (PhD [?] diss., University of Illinois, 1938), 42, in Box 5, Folder 1, Series 1: Manuscripts by Persons Other than Joseph Ragen, Joseph Edward Ragen Papers, 1926-1971, Abraham Lincoln Presidential Library.

parole agent first “satisf[ied] himself that she was the kind of a girl who would be a help rather than a handicap to the parolee,” before explaining the circumstances of her husband-to-be’s parole. If the paroled man had not informed his agent of his intent to marry, he would have violated parole and “have been headed straight for marital unhappiness.”<sup>719</sup>

In the second story, a devious wife files a complaint against her paroled husband with his agent in an attempt to get him returned to prison. The parole agent makes an investigation of her charges and discovers that the woman had been living with another man during her husband’s incarceration. She wants her husband returned on violation so she can resume this extramarital affair. Leopold used this example to assure the potential parolee that he would never be “framed” while on parole—“when you are in the right, the entire power of the State of Illinois... is behind you.”<sup>720</sup> Both examples illustrative of the good intentions of state parole agents involve womanly influences on the parolee, an image of life on release dependent on the maintenance of traditional gender roles. Indeed, women in the orbit of the male parolee were subjected to the exacting eye of state investigators.

As Leopold’s examples and the accounts recorded by sociologist-actuary Hans W. Mattick indicate, the paroled man’s gender could offer leverage in his dealings with state agents. Rather than questioning the paroled man’s influence on his prospective fiancé in Leopold’s first example, the agent instead sizes her up to ensure that she will make a suitable helpmeet. This interview with the paroled man’s romantic partner was common practice in the late 1930s and early 1940s. Wesley F. Jameson, paroled from Pontiac in the early 1940s, recalled that when he met the woman he dated while on parole he did not tell her about his record at first. But he soon “had to explain it to her because I had to bring her down to the parole office.” Though Jameson

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<sup>719</sup> Leopold, *A New Day*, 10.

<sup>720</sup> *Ibid.*, 11.

did not consider the relationship a serious one, his parole agent “had to approve of her even for you to keep company with her.”<sup>721</sup> The suspicious eye of the state polices the woman first, placing the blame for any male transgressions onto her in the event that her conduct deviates from the feminine standard. Mattick’s interviews show that this pattern of protecting the male parolee from devious women, or women who behaved improperly, was clearly not a figment of Leopold’s imagination.

Parolee Damon Gillian even entered the Army at the behest of his parole agent after “one girl tried to blame him for giving her a baby.” Gillian earned his agent’s trust after being “no trouble” during the two years he had spent on parole. The former parolee recalled a good relationship with the agent, who “used to encourage him and give him advice.” To avoid Gillian’s possible return to prison, the agent arranged for him to join the Army.<sup>722</sup> Though having a baby out of wedlock was not an express violation of the parole agreement—for a man—the parole agent helped Gillian dodge potential responsibility, fiscal or otherwise, for a child he may have fathered.<sup>723</sup> But male prisoners also faced gendered challenges. The image of the parolee crafted by Chicago newspapers—armed, aggressive, and extremely dangerous to the public—was always male. He was a second- and third-offender, possibly “a vicious gunman,” “a

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<sup>721</sup> Note that all names of men interviewed by Hans W. Mattick for his parole to the army study have been changed per the Chicago History Museum’s “Request for Research Access to Confidential Materials” agreement. Wesley F. Jameson, interview with Hans W. Mattick, January 3 and January 6, 1952, Box 175, Folder 70 in Hans W. Mattick Papers, 1944-1972, CHMRC. Another former parolee interviewed by Mattick suggested changes that might improve the parole system: “... I think they should let a man go to a dance or a movie, and I think if he’s got a girl he shouldn’t have to bring her around to the parole officer.” Jason E. Johnson, interview with Hans W. Mattick, January 9, 1952, Box 175, Folder 72 in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>722</sup> Hans W. Mattick notes on interview with Damon Gillian, April 9, 1951, 2, Box 175, Folder 24 in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>723</sup> Having a baby out of wedlock while on parole would almost guarantee a woman’s return to prison. This gendered double standard is further reinforced by Dodge’s lengthy quotations from parole board hearings, in which one of the most common questions posed to women prisoners seeking parole was: “Now, what kind of girl have you been morally?” Even the suspicion that an incarcerated woman had carried on a common law relationship outside of the formal bounds of marriage could ruin her chances at parole. L. Mara Dodge, *Whores and Thieves of the Worst Kind: A Study of Women, Crime, and Prisons, 1835-2000* (DeKalb: Northern Illinois University Press, 2002), 186.

killer who has no compunctions when he has the impulse to take a life,” or perhaps a rapist who kidnapped young girls from the streets of Chicago. Whatever his crimes, he was always “a roving menace to the safety and property of anyone he encountered.”<sup>724</sup>

Though parole experiences differed widely, the average parolee’s reality likely fell somewhere in between the bleak accounting of the parole system offered by Rasmussen’s anonymous survey-takers and Leopold’s rosy view of post-prison life. The parolee-agent relationship was just one of many factors that shaped a man’s experience on parole in the 1930s and 1940s. The unique amalgam of each ex-prisoner’s familial relationships, his mental and physical health, his post-prison encounters with the legal system, and his ability to find steady work, among other facets of his life, helped define his parole experience and outcome. Though each man’s trials and tribulations within the parole system differed, many of the challenges paroled men faced were influenced by their race and class status. Unlike parolees three or four decades earlier, these men faced a robust parole system, a gradually professionalizing corps of parole officers, and a much larger city police force. Contacts with law enforcement were more frequent for all, and especially for African American men, who lived in heavily—if selectively—policed areas on the South Side.

Despite civil service regulations, professionalization efforts, and Nathan Leopold’s idealized depiction of the parolee-agent relationship, many parole agents were political appointees.<sup>725</sup> One angry man who passed the civil service examination for the field parole agent

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<sup>724</sup> Articles on paroled sex offenders include “Crime: Paroles,” *Chicago Daily Tribune*, August 1, 1937, B12; “Four Parolees Seized, 2 for Rape Attempts,” *Chicago Daily Tribune*, July 26, 1931, 1; “Hammer Moron One of 711 to Get Parole Hearing: Rapist, Twice Freed, Will Make New Bid,” *Chicago Daily Tribune*, May 21, 1939, 9. On gunmen and murderers, see George Wright, “Another Parole ‘Mistake’ that Spells Murder,” *Chicago Daily Tribune*, December 18, 1938, 21; “Parole Board Head Before Horner Over Release of Killer,” *Chicago Daily Tribune*, December 25, 1936; “The Killer on Parole,” *Chicago Daily Tribune*, January 17, 1937, 22; “Parole Killing Arouses City; Fight System,” *Chicago Daily Tribune*, January 17, 1937, 1.

<sup>725</sup> Professionalization efforts included the founding of a monthly bulletin to dispense professional advice and keep agents apprised of the newest scholarship related to social casework. See “Parole Supervision News,” in *Parole*

position wrote to the *Chicago Daily Tribune* expressed doubts that he would ever be hired without the right political connections.<sup>726</sup> Still, there were competent and even kindly agents among the men who won their jobs by services rendered in an election year—those who behaved more like mentors than state agents, who “tried every way in the world” to aid the paroled men under their supervision.<sup>727</sup> Parole agent Russell Higgins believed that his colleagues could approach each parolee “as a friend” in spite of the discretionary disciplinary power the agents wielded. The parole agent, Higgins argued, should establish a strong relationship with the paroled man, such that the releasee saw the agent as “one in whom he can confide and discuss the many problems which may confront him on the road to normalcy, without fear of being misunderstood or unduly penalized.”<sup>728</sup> But the risk of landing in the custody of an unscrupulous or overly strict agent was well known to every prisoner waiting for their chance at parole. Many of the incarcerated men surveyed by Donald Rasmussen believed parole agents were lazy, incompetent, or corrupt, with some citing personal experience with agents “that want a man to pay money to stay out and if you do not pay you are to come back for violating.”<sup>729</sup>

Men who spent time on parole in the late 1930s and early 1940s related their experiences with incompetent and corrupt parole agents to Hans W. Mattick even as the Division of Supervision struggled to professionalize. Joliet parolee Roger Barlow got lucky with his first parole officer, who treated him with respect and “sat down with the family like a member of the family,” but his next agent was more difficult to get along with. He remembered that the man

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*Supervision News, State of Illinois* 1, no. 2 (January 1942), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL.

<sup>726</sup> George A. Trandel, “What’s Wrong with Parole?,” *Chicago Daily Tribune*, January 31, 1937, 21. Also see “Head of Parole Unit Under Fire Bares Pay Roll,” *Chicago Daily Tribune*, October 21, 1936, 7.

<sup>727</sup> Charles O’Neill, interview with Hans W. Mattick, August 6-7, 1951, Box 175, Folder 44, in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>728</sup> Russell Higgins, “Effective Supervision,” *Parole Supervision News, State of Illinois* 1, no. 5 (April 1942), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL.

<sup>729</sup> Anonymous Stateville parole violator #31 as quoted in Rasmussen, “Attitudes,” 84.

was a “political appointee” who “had to let everybody know he was a parole agent” and embarrassed Barlow in front of his neighbors as a result of this indiscreet behavior. Moreover, this agent always “made it obvious that he wanted something” by spending time perusing Barlow’s pay stubs and examining the labels in his clothing.<sup>730</sup> Former Pontiac prisoner Henry J. Blake recalled similar behavior from his parole agent, and told Hans Mattick that he was always feeling as though his parole agent was waiting for him to break a rule “so I’d have to buy him something.”

Blake also shared memories of his job at Pontiac, as a secretary in the parole office. What he witnessed while incarcerated, he said, led him to lose respect for the parole system. During his interview with Mattick, Blake stated that it was routine practice for parole officers to use Illinois’s system for picking up violators in other states as an excuse to take an all-expenses paid vacation to the part of the country where they wanted to travel. This manipulation of the system for personal gain, carried out in full view of inmate workers, caused many to feel vindicated when violating their parole contracts or breaking laws once released.<sup>731</sup> No good could possibly come of the parole rules for the paroled man himself, many reasoned.

RULES FOR PERSONS ON PAROLE IN  
ILLINOIS (1934)\*

1. Do not carry weapons of any kind.
2. Do no frequent disreputable establishments nor criminal “hang-outs.”
3. Do not associate with any one who has a police record.
4. Do not write or visit any inmate of a penal or correctional institution.
5. Do not get drunk.
6. Do not use drugs or narcotics.
7. Do not get married without first getting permission from your parole agent.
8. Do not drive or ride in an automobile for pleasure without first getting permission from your parole agent.
9. Do not be away from home after 9:00 P.M. without permission from your parole agent. (Parolees living in metropolitan districts are allowed an extra half hour. They must be home by 9:30 P.M.)
10. Do not leave the county to which you are paroled without permission.

\*From Nathan F. Leopold, *A New Day and How to Make It*, p. 16-17. These rules are the same as those enforced in 1938.

<sup>730</sup> Roger Barlow, interview with Hans W. Mattick, January 22, 1952, p. 3, Box 175, Folder 77, in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>731</sup> Henry J. Blake, interview with Hans W. Matick, April 22, 1951, 2, Folder 28 in Hans W. Mattick Papers, 1944-1972, CHMRC.



In personal interviews with Donald Rasmussen, dozens of incarcerated men stressed their opinion that many of the rules governing parole were “a lot of foolishness” and the rest just “rules that anyone would call common sense.”<sup>732</sup> Though some indicated an intent to live by the parole contract if released—one man told Rasmussen that “the parolee can get along with the rules... [that] are designed to help him”—others found it laughable that the state expected them to adhere to a “useless and senseless” list of don’ts. Ron Guglielmo told Hans Mattick that he “didn’t pay no attention to that ten o’clock” curfew and simply got home whenever he pleased while on parole. Another man stated confidently that “every one breaks the parole rules.”<sup>733</sup> Nearly every prisoner interviewed for Rasmussen’s thesis mentioned that rule enforcement depended on the paroled man’s agent assignment, and some viewed the rules as instruments to be used in a “crude way” to the advantage of the parole agent.<sup>734</sup> The gap between the intention of the rules and their use, between theory and practice, seemed clear to many of Rasmussen’s interviewees. One prisoner argued that the parole system served only to oppress paroled men while enriching politically appointed parole agents.<sup>735</sup> While the rules might have been written with the intent to “do some good,” the way they were interpreted in practice generally proved detrimental to men on parole.

For some men on parole, adherence to parole rules and interactions with their parole agents were simply inconveniences. While these inconveniences had potentially major consequences, such as return to the penitentiary, some of Mattick’s interviewees spoke of their parole periods as petty annoyances. After his parole from Pontiac in 1942, Frederick Giesen

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<sup>732</sup> Anonymous Stateville interviewee #15, as quoted in Rasmussen, “Attitudes,” 156. For other men expressing similar opinions, see *Ibid.*, 153-158.

<sup>733</sup> Anonymous Stateville interviewees #14 and #16, as quoted in *Ibid.*, 156-157. Ron Guglielmo, interview with Hans W. Mattick, June 12, 1951, 1, Folder 38 in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>734</sup> Anonymous Stateville interviewee #13, as quoted in *Ibid.*, 155.

<sup>735</sup> Anonymous Stateville interviewee #19, as quoted in *Ibid.*, 159.

recalled joining the Army to escape parole supervision. Giesen was quite young, having been convicted of larceny and sent to Pontiac while still a high school student, and he chafed against the parole rules when released at age 21. He complained of the “rather restricted life” he led while on parole and was bothered by the disruption caused by parole agents who “came stalking into the house late at night” whenever they chose to see if he might be violating his curfew. Further, he resented entitled “meddlers and bleeding hearts” for prying into his “private life” while he was on parole. Giesen characterized his parole as “an inconvenience” and denied any feelings of apprehension about joining the armed forces, as he had participated in ROTC at his high school and many of the men in his working-class Scottish family had served during the first World War. His Army induction could help him escape “the possibility of going back to the jug for some minor infraction of the rules.”<sup>736</sup>

It is possible that some interviewees downplayed their fear of arrest and re-incarceration to indicate to Mattick, of whom they may have been suspicious, that they were “going straight” and had not returned to a life of crime while on parole. Others likely enjoyed good relationships with their parole officers or had money to bribe the right people and worried less about being sent back for minor violations. Some with honest parole officers simply believed in the integrity of the system. Another Pontiac parolee, Gordon Jennings, stated that he had “no trouble at all” while on parole after following the advice of his parole agent, who told him “if you keep your eyes open and your mouth shut, you’ll be alright.” He characterized the parole rules as “pretty strict,” but believed they were justified “because they’re taking a chance on a fellow.” Jennings

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<sup>736</sup> Frederick Giesen, interview with Hans W. Mattick, June 5, 1951, pgs. 1, 9, and “Prediction Report of the Sociologist-Actuary, Illinois State Penitentiary Pontiac Branch for #11808 Frederick Giesen,” November, 1942, Box 175, Folder 36, in Hans W. Mattick Papers, 1944-1972, CHMRC. Former Pontiac parolee Alexander Brown described his parole period in similar terms, telling Mattick, “... I didn’t like the supervision. They never bothered me but I didn’t like the rules. You’re regimented.” Alexander Brown, interview with Hans W. Mattick, April 4, 1951, 2, Box 175, Folder 23, in Hans W. Mattick Papers 1944-1972, CHMRC.

was on parole for two and a half years before entering the Army. While the police in this man's neighborhood knew who he was and occasionally checked up on him, he remembers that they left him alone once they saw that he was working steadily and avoiding other men with criminal records. Jennings opined that success on parole was up to each individual man: "He has to keep his nose clean, then he can do his parole anywhere."<sup>737</sup>

Even former parolees who found it simple to abide by the rules and avoid contact with law enforcement encountered difficulties with employment outside the prison. Finding that first outside job—with an employer to sponsor your parole—was undoubtedly the most significant challenge faced by many potential parolees. Though, to judge by Mattick's interviews, few paroled men stayed in their first "out-job" for long, prospective parolees were required to secure employment and (if paroled in Chicago) a reputable sponsor prior to release. Incarcerated men generally located sponsors and jobs either by sending letters from prison to former employers or by appealing to friends and family with connections at certain workplaces. As one of Rasmussen's "articulate inmates" wrote, this requirement proved particularly difficult to fulfill during the Depression, when many "free members" of a prisoner's family likely found themselves facing unemployment. Most prisoners hailed from the ranks of "lower middle class families, from those of factory workers, from... the unemployed, from slums" and lacked the kinds of influential relatives and friends who could secure jobs for them at a time when millions of men without criminal records searched desperately for work.<sup>738</sup>

The first issue of the Division of Supervision of Parolee's *Parole Supervision News* called for agents to find employment for men without connections, that "submerged group" of

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<sup>737</sup> Gordon Jennings, interview with Hans W. Mattick, May 25 and 28, 1951, Box 175, Folder 33, in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>738</sup> Anonymous Stateville prisoner as quoted in Rasmussen, "Attitudes," 142.

imprisoned men unable to leave the institution on parole because they did not have a “home and/or employment waiting on the outside.”<sup>739</sup> From the first issue on, the professional newsletter began with a letter from Superintendent of Supervision Milton H. Summers, dispensing advice to agents, offering praise, and occasionally admonishing employees for some dereliction of duty. In his first missive, Summers articulated the problem of the “submerged group” in financial terms without mentioning the physical and emotional costs to the men who remained incarcerated. He reminded parole agents that these men were a drain on state finances, as it cost far more to keep the “poor unfortunates” in prison than to supervise them on parole.<sup>740</sup> Language such as this provides clues to how Summers and his parole agents approached their jobs and thought about paroled men—often in terms of the bottom line rather than the man’s overall wellbeing. Agent Sam Adler embraced Summers’ capitalistic tone when writing about his approach to finding jobs for parolees. After getting “acquainted” with prospective employers, Adler would make his pitch, trying to “convince [them]... that my merchandise is the best.” He cited selling points for the paroled men he called “merchandise,” reminding his fellow agents to stress “that our men must be in by 10 o’clock at night, they are not permitted to... become intoxicated, with the result that they will have a clear head” for a full day’s work. Still, Adler warned, “[you should] never forget the fact that you are selling damaged goods.”<sup>741</sup>

Though the challenge of finding an out-job diminished as the wartime economy expanded, employers willing to pay good wages were still wary of formerly incarcerated men.

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<sup>739</sup> “Division Helps Submerged Group: Office Starts Concerted Effort to Find Jobs for Inmates,” *Parole Supervision News, State of Illinois* 1, no. 1 (December 1941), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL. Though the Division only published a few issues of the newsletter before the wartime draft stole its editor, it helped set an agenda and tone for professional parole work in the Chicago and Springfield offices in 1942.

<sup>740</sup> Milton H. Summers, untitled introductory statement, *Parole Supervision News, State of Illinois* 1, no. 1 (December 1941), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL.

<sup>741</sup> Sam Adler, “How to Find a Job for Parolees,” *Parole Supervision News, State of Illinois* 1, no. 2 (January 1942), unpaginated, Box 4, Ralph Lewis Papers, 1921-1980s, SCRC-UCL.

Raymond Garrett, paroled from Joliet during the war, told Mattick that “the toughest thing” he faced on parole was finding “a good job.” Perched on one of the six stools at the counter of his small restaurant, the fifty-year-old chef and business owner remembered working at a vinegar factory for the first month after he was released from prison. He filled bottles there for forty cents an hour and looked for a new job in his spare time because “they wasn’t paying me anything and the only reason I worked there is because they got me out on parole.” Garrett soon returned to the job he had before his incarceration, as an ice puller with Adams Ice Company. He made ninety-five cents per hour and never told anyone he was on parole.<sup>742</sup> Many men kept their parole status secret and obscured their criminal records when searching for better-paying jobs while on parole. Hiding one’s record proved advantageous beyond the hiring process. Former parolee Christopher Cawley explained, “[it’s] a disadvantage when the people you work for know you have got a record. People can take advantage of you for that reason. If any trouble comes up their word is better than yours.”<sup>743</sup> When Damon Gillian searched for jobs during his parole, he first checked the application to see if it asked about criminal history. If so, he would get up and leave “because if anything came up later you’d catch it or get blamed.”<sup>744</sup>

For others, making it through three years on parole without being returned to prison was more complicated than following all the rules, keeping their record a secret, and landing a decent parole agent. A paroled man’s racial identity and—to a lesser extent—his economic status could be downright dangerous, leaving him more open to exploitation, arrest, physical harm at the hands of police, or the risk of return to the penitentiary. Indeed, unscrupulous employers hoping

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<sup>742</sup> Raymond Garrett, interview with Hans W. Mattick, December 3, 1951, 2, Box 175, Folder 63, in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>743</sup> Christopher Cawley, interview with Hans W. Mattick, January 12, 1951, 12, Box 175, Folder 2, in Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>744</sup> Damon Gillian, interview with Hans W. Mattick, April 9, 1951, 2, Box 175, Folder 24, in Hans W. Mattick Papers, 1944-1972, CHMRC.

for cheap laborers likely sought paroled men out for exploitation. Many of the accounts of parole diligently recorded by Hans Mattick in the 1950s include painful memories of scraping by on extremely low wages paid out by crooked employers, unwarranted arrests, and police harassment. Already trapped in low-paying, hazardous industry jobs under the best of circumstances, African American men on parole sometimes found themselves at the mercy of exploitative sponsors. Wade Marshall's story justifies one Stateville prisoner's critique of "parole status as a form of peonage."<sup>745</sup>

When forty-year-old Wade Marshall arrived at Mattick's office to discuss his parole and Army experiences, Mattick first noted the shabbiness of his clothes and his thick southern accent. Marshall was clearly battling alcoholism and stuck in a string of low-paying, temporary jobs at the time he spoke to Mattick, but rapport during their interview was "very good" and the former Pontiac parolee was generous with information. He was on parole for over a year before being drafted, during which time he had difficulty making ends meet. Marshall secured a job at an upholstery shop where he had worked before going to prison. Though his boss rehired him because he was "a good and responsible worker," promising him fifteen dollars per week, the employer barely paid Marshall at all. Marshall told Mattick, "I was promised the \$15.00 but for the first four months I didn't get a penny. I was just working and in the last two months he paid me \$6.00 per week." The boss informed the paroled man that if he left his job at the upholstery shop he would be returned to prison as a parole violator. Terrified of this potential outcome, and perhaps leery of his parole agent, Marshall waited six months before he shared his plight with the parole office.<sup>746</sup>

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<sup>745</sup> Anonymous Stateville prisoner as quoted in Rasmussen, "Attitudes," 123.

<sup>746</sup> Wade Marshall, interview with Hans W. Mattick, December 13, 1951, 3, Box 175, Folder 67, in Hans W. Mattick Papers, 1944-1972, CHMRC. Mattick suspected that the parole agent made an arrangement with the employer to collect a portion of the wages that should have gone to Marshall. This experience was not unique to Marshall, or to

Marshall clearly did not believe that the Division of Parole Supervision would protect him from “unjust treatment,” as promised in *A New Day and How to Make It*.<sup>747</sup> Growing up in the South, the young Wade would have learned to be extremely careful around police officers, who routinely murdered African American suspects and took part in or otherwise condoned lynchings in the name of preserving racial order.<sup>748</sup> Later, as he navigated life in Chicago, Marshall would have learned that the police functioned to control working class people rather than protect them, to enforce the color line, and to reap the benefits of the white-owned vice operations that diminished the quality of life in black neighborhoods. He would perhaps have read about disproportionate arrest and conviction rates in the *Chicago Defender*, and almost certainly would have heard horrific accounts of the “third degree” method: beatings perpetrated by the Chicago police to induce confessions.<sup>749</sup> Distrust for law enforcement may have led

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African American paroled men—though the instances of withholding wages or unfair compensation for labor come up more frequently in Mattick’s interviews with black Chicagoans. Former parolee Patrick Ferris, a white man, recalled that he worked as a laundry sorter for his first job after release from prison. He was paid only 40 cents an hour and worked ten-hour days. He commented, “[It was] a slave joint, and they weren’t paying time and a half... they were pushing me to [sic] hard.” Patrick Ferris, interview with Hans W. Mattick, April 11, 1951, and April 13, 1951, 1, Box 175, Folder 26, in Hans W. Mattick Papers, 1944-1972, CHMRC. For another black man’s experience with an employer who withheld wages, see Lawrence Mathis, interview with Hans W. Mattick, December 17, 1951, 2, Box 175, Folder 69, in Hans W. Mattick Papers, 1944-1972, CHMRC. The exploitation of paroled workers was common enough for the Illinois Prison Inquiry Commission to include this statement in the section of its report that addressed the parole system: “Some method should be adopted, preferably by statute, to provide for the punishment of any person or persons attempting or succeeding in exploiting parolees.” Illinois Prison Inquiry Commission, *The Prison System in Illinois*, 508. Later, in 1948, the *Defender* reported on a case of alleged peonage involving a paroled man who said he was forced to work seventeen-hour days for only twenty dollars per week. “Held in Peonage, Shot, Framed for Objecting,” June 19, 1948, *The Chicago Defender*, 3.

<sup>747</sup> Leopold, *A New Day*, 23.

<sup>748</sup> This is an oversimplification of the policing of African Americans in the Jim Crow South and of the fear of law enforcement that Wade Marshall’s loved ones would have instilled in him in an effort to keep him safe. On southern policing and American lynch law from 1900-1930, see Ashraf H.A. Rushdy, *American Lynching* (New Haven: Yale University Press, 2012); Jeffrey S. Adler “‘The Greatest Thrill I get is When I Hear a Criminal Say, ‘Yes, I Did It’’: Race and the Third Degree in New Orleans, 1920-1945,” *Law and History Review* 34, no. 1 (February, 2016), 1-44; Jeffrey S. Adler, “‘The Killer Behind the Badge’: Race and Police Homicide in New Orleans, 1925-1945,” *Law and History Review* 30, no. 2 (May 2012), 495-531; Kidada E. Williams, *They Left Great Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I* (New York: NYU Press, 2012), Chapter 4; K. Stephen Prince, “The Trials of George Doyle: Race and Policing in Jim Crow New Orleans,” in *Crime and Punishment in the Jim Crow South*, eds. Amy Louise Wood and Natalie J. Ring (Urbana: University of Illinois Press, 2019), 17-33.

<sup>749</sup> See Balto, *Occupied Territory*; Joseph Spillane, “The Making of an Underground Market: Drug Selling in Chicago, 1900-1940,” *Journal of Social History* 32, no. 1 (Fall 1998), 39-40; Will Cooley, “Jim Crow Organized

Marshall to worry that any complaint about the employer who sponsored his release from prison would get him in trouble with his parole agent or the police.

As an African American man and a parolee, Marshall was right to be wary of law enforcement. Men on parole and with criminal records, especially black men, were far more vulnerable to arrest and police harassment than men who had never been arrested or convicted. Out of the sixty-five interviews with former parolees preserved in Hans W. Mattick's papers, forty-seven pertain to white men and eighteen to black men. Thirteen (28%) of white men and five (38%) of black men formerly on parole reported being arrested or harassed by the police while on parole or as a result of their criminal record. Parolees were often picked up by police on suspicion and forced to participate in the "show up" where they could be examined by crime victims. Henry J. Blake remembered "if there was a robbery within a block, you [as a parolee] were a mortal cinch to be taken in to be questioned." Police interrogation, as discussed in chapter four, could be extremely brutal and lead to extensive injuries as well as the loss of several days' wages. Sometimes men were unable to return to work for "three or four days" after being questioned.<sup>750</sup> A man's criminal record, too, could be justification enough for law enforcement to haul him down to the station. Police waited for World War II veteran and former parolee Sam Brennan to arrive home, arrested him, and booked him for disorderly conduct. "... I wasn't doing anything," he told Mattick. "The policeman knew me from before so he took me in." Brennan, who was white, spent three days in jail and was paraded past witnesses at a show up before he

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Crime: Black Chicago's Underground Economy in the Twentieth Century," in *Building the Black Metropolis: African American Entrepreneurship in Chicago*, eds. Robert E. Weems, Jr. and Jason P. Chambers (Urbana: University of Illinois Press, 2017), 147-170.

<sup>750</sup> Henry J. Blake, interview with Hans W. Mattick, April 22, 1951, 3, Box 175, Folder 28, Hans W. Mattick Papers, 1944-1972, CHMRC.



was released.<sup>751</sup> Former Pontiac parolee Jackson Finley reported similar treatment. Cops “who knew me from when I got in trouble” would pick him up, charge him with disorderly conduct, force him to participate in a show up, and then let him go.<sup>752</sup> Brennan reported that men with criminal records would often bribe police not to be taken in so as not to lose a day’s wages.

While white interviewees usually reported being arrested by police officers they knew on sight from previous encounters with law enforcement, the African American men Mattick spoke



*Figure 19 A "show up" of men on parole standing before crime victims. The Chicago Tribune published this image, along with the names of ex-prisoners in the lineup, in January of 1937 after State's Attorney Thomas Courtney ordered a roundup and investigation into all men on parole in Chicago. Joseph Schuster, who had just confessed to shooting a police officer, is second from the left.*

with reported being picked up in raids, shakedowns, or on suspicion by officers they did not know personally. Lawrence Mathis was picked up on suspicion and spent three days in jail away from his job, his wife, and his two children. Desperate, his wife located the woman complainant and brought her to the lockup to prove his innocence. The woman told police he “was not the

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<sup>751</sup> Sam Brennan, interview with Hans W. Mattick, February 22, 1951, 5, Box 175, Folder 8, Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>752</sup> Jackson Finley, interview with Hans W. Mattick, March 19, 1951, 6, Box 175, Folder 15, Hans W. Mattick Papers, 1944-1972, CHMRC.

man” and they let him go. Over the course of speaking with dozens of African Americans who were paroled to the Army or drafted during parole on the street, Mattick found that many could not avoid contact with law enforcement.

Former Pontiac parolee Royce Hall told Mattick that the police often bothered anyone in black neighborhoods who was “dressed clean and decent,” presumably hoping for a bribe or cash they could appropriate. Hall was chatting with a friend on a street corner when the two were arrested and searched. His friend had a winning lottery ticket, worth ten dollars, in his pocket. Police confiscated it.<sup>753</sup> Though the daily numbers lottery was illegal, the “policy kings” who ran the games paid the police handsomely to turn a blind eye, or even to assist with its operation. The officers who stopped Hall and his friend likely cashed the ticket in after seizing it.<sup>754</sup> Arrests could be expensive for former prisoners, even if they were never charged, jailed, or tried for a crime. Wade Marshall recalled being arrested after a night of drinking. He was headed home in a cab with two friends, a white man and a black woman, when the three and the cabbie driving them were picked up and brought to the police station. They were never charged and Marshall could not figure out why they were stopped, but he had to pay a fine and costs amounting to twenty-five dollars. He could not afford to pay this amount and was sentenced to the House of Correction for eight days to work off his debt. As a result of this, Marshall would likely have lost his job along with eight full days of wages. Though Marshall “used to take anything that wasn’t nailed down,” he had abandoned crime after starting a family. He doted on his young daughter, telling Mattick, “the only thing that would get me in trouble now is if anything happened to her.”

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<sup>753</sup> Royce Hall, interview with Hans W. Mattick, January 16, 1952, 13, Box 175, Folder 75, Hans W. Mattick Papers, 1944-1972, CHMRC.

<sup>754</sup> Cooley, “Jim Crow Organized Crime,” 149-150.

Still, he was arrested three times and imprisoned in the House of Correction twice since his discharge from the Army.<sup>755</sup>

## **Conclusion**

Illinois's foray into prognostic criminology was precocious in the New Deal era—few other state criminal justice systems adopted actuarial methods to predict criminality or recidivism during this period. But the sociologist-actuaries working in Illinois inspired a proliferation of academic work on parole prediction, ensuring that it remained a subject of study and debate among social scientists and corrections professionals from the 1930s onward. By the 1970s, the federal government and parole boards in several other states used predictive methods. The United States Parole Commission relied on the Salient Factor Score, a streamlined version of the Burgess system, to predict parole performance for prisoners held in federal institutions.<sup>756</sup> The application of sociological risk-assessment techniques in Illinois corrections formed the foundation for the actuarial turn in the American criminal justice system in the last few decades of the 20<sup>th</sup> century. It began the tradition of using seemingly race-neutral factors that were deeply rooted in the structural inequalities faced by Americans of color, from the effects of discrimination in housing and employment to racial biases in intelligence testing. The erasure of the race category in criminological risk assessment models, or the use of tens of other factors along with ethnic or racial background, lent a pretension of objectivity to discrimination against black and brown prisoners that would result in their disproportionate incarceration in the urban north.

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<sup>755</sup> Marshall, interview, 15.

<sup>756</sup> Bernard Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* (Chicago: The University of Chicago Press, 2007): Kindle locs. 899 and 3503. Harcourt notes that by 1961, Illinois, Ohio, California, Colorado, and Minnesota were either using or experimenting with parole prediction. By 1994, a survey of paroling authorities indicated that twenty-six jurisdictions made use of actuarial methods.

## EPILOGUE

### From Illinois to the Nation: The Spread of Actuarial Prediction

“For the greater portion of the Illinois community parole exists in name only,” Governor Adlai E. Stevenson declared. In a 1950 speech to the Congress of Correction, held annually by the American Prison Association, Stevenson reflected on the growth of the Illinois prison system and the chipping away of the parole board’s discretionary powers.<sup>757</sup> The 1943 amendment to the indeterminate sentencing law, intended to remedy alleged parole board leniency, granted the courts the power to set the minimum and maximum limitations on indeterminate sentences within the statutory limits for specific offenses. This limited board discretion and diminished the number of prisoners released under parole supervision.<sup>758</sup> By the 1950s, though about 92% of prisoners in Illinois were held under indeterminate sentences, far less than half were released under parole supervision. Still, by 1960 these numbers had climbed back up, with the parole board releasing 52% of the state’s prisoners.<sup>759</sup> The board relinquished some of its power to set terms of incarceration to the judiciary, but parole remained a significant component of the Illinois corrections landscape through the 1970s.<sup>760</sup>

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<sup>757</sup> Adlai E. Stevenson, “A Governor’s Observations,” in *Proceedings of the Annual Congress of Correction of the American Prison Association* (1950), 13.

<sup>758</sup> Joseph D. Lohman and Harvey L. Long, “Illinois,” in *Crime and Delinquency* 3, no. 4 (October, 1957), 425. For instance, a judge might set a sentence of five to six years, which would not permit the board to exercise the kind of discretion it could for a sentence of one to ten years.

<sup>759</sup> Stevenson, “Observations,” 13. T. Edward Austin, “Division of Supervision of Parolees,” in *Annual Report of the Department of Public Safety for the Fiscal Year July 1, 1952 to June 30, 1953* (Springfield: State of Illinois, 1953), 79. Ralph W. England, Jr., “Some Dangers in Parole Prediction,” *Crime and Delinquency* 8, no. 3 (July, 1962), 266.

<sup>760</sup> Indeed, from 1956 to 1972, the percentage of Illinois’s total institutional population on parole would increase by fifteen percentage points, from 12% to 27%. In 1972, a total of 3,089 persons were under parole supervision in the state. Illinois Department of Corrections Division of Research and Long-Range Planning, *Adult Division—Population Statistics: Institution and Parole Supervision Services* (Springfield: State of Illinois, 1972), Table 1.

Actuarial prediction, too, withstood the test of time. It would remain an integral part of the Illinois parole system until 1978, when the state abolished parole for all except those grandfathered in under previous indeterminate sentencing laws. By 1967, the Office of the Sociologist-Actuary was dissolved and its duties taken up by the Division of the Criminologist in the Illinois Department of Corrections. The Illinois parole board relied on sociologists' reports and prognostic scores well into the 1970s.<sup>761</sup> The Burgess method evolved from Daykin's 1938 twenty-seven-factor model down to Lloyd Ohlin's twelve-factor assessment, used at Joliet and Menard, and Glaser's seven-factor instrument for Pontiac. The three branches of the Illinois State Penitentiary used the twelve and seven-factor methods from the 1950s onward. A group of legal scholars concluded in a 1976 article that board rulings from 1970-1972 were very strongly correlated with "official predictions or 'prognoses' about an inmate's future behavior that are recorded by correctional sociologists within the institutions."<sup>762</sup> These prognoses likely hewed closely to actuarial risk scores. But even in the unlikely event that the Illinois Parole Board routinely ignored the actuarial assessments included in the sociologists' reports, parole prediction began to catch on in a nation desperate for solutions amidst another perceived crime wave. By the 1970s, the same decade Illinois abolished parole, paroling authorities across America began to adopt the actuarial tools first developed in the Prairie State.

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<sup>761</sup> U.S. House, Subcommittee No. 3 of the Judiciary Committee, *Corrections- Federal and State Parole Systems, Hearings before Subcommittee No. 3 of the House Judiciary Committee on H.R. 13118 and Identical and Related Bills*, 92<sup>nd</sup> Congress B- Part VII, 1972, 721.

<sup>762</sup> Anne M. Heinz, John P. Heinz, Stephen J. Senderowitz, and Mary Anne Vance, "Sentencing by Parole Board: An Evaluation," *Journal of Criminal Law and Criminology* 67, vol. 1 (1976), 18. Still, former Illinois sociologist-actuary Daniel Glaser wrote in 1985 that there was no way to tell if the statistical risk prognosis was the "dominant influence" over the board. Perhaps the written case assessment included in the reports made more of a difference than the numerical risk scores. Daniel Glaser, "Who Gets Probation and Parole: Case Study Versus Actuarial Decision Making," *Crime and Delinquency* 31, vol. 3 (July, 1985), 372.

From the late 1970s through the early 2000s, twenty-eight states and the federal government adopted actuarial tools, and the twenty-three states with active parole systems still used these methods by 2004.<sup>763</sup> Penal officials throughout the country would have been familiar with actuarial parole prediction as early as the 1940s, given the attention it received in the massive, multivolume study of release procedures published by the U.S. Attorney General in 1939. So why did actuarial prediction, long debated in the criminological literature, take so long to catch on outside of Illinois? Why was it eventually adopted? What happened to parole in Illinois between 1943 and 1978? And how do these predictive models, so closely related to those developed in the Prairie State by Burgess and his mentees, continue to guide criminal justice decision-making today?

In 1939, the *Attorney General's Survey of Release Procedures* bemoaned the “subjective and emotional elements” that drove decision-making for most state parole boards, but cautioned against any reliance on statistical prediction.<sup>764</sup> Attorney General Homer S. Cummings began this research in 1936 in response to “recently aroused public sentiment against parole” observed in Illinois and across the country mid-decade.<sup>765</sup> Funded by the WPA, the project employed over

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<sup>763</sup> Bernard Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* (Chicago: The University of Chicago Press, 2007), Kindle Loc. 973.

<sup>764</sup> Department of Justice, *Attorney General's Survey of Release Procedures Vol. IV: Parole* (Washington: US Government Printing Office, 1939), 171. The *Survey's* purpose was twofold. First, it would “disclose the effectiveness of the different statutory, institutional, and other measures used currently in the several jurisdictions.” Second, and subordinate to the first purpose, the *Survey* would “determine the nature, extent, and prognostic value of information now obtained by courts, probation officers, prisons, and parole officials.” See “The Attorney General's Survey of Release Procedures (A Works Progress Administration Project),” Box 71, Central Administrative File, 1937-1967; General Records of The Bureau of Prisons and its Predecessors, 1870-1978; Records of the Bureau of Prisons, Record Group 129.2.1; National Archives at College Park (hereafter NACP).

<sup>765</sup> Barkev S. Sanders, “The Purpose and Progress of the Attorney General's Survey of Release Procedures,” *Journal of the American Statistical Association* 31, no. 196 (December, 1936), 732.

750 persons to survey jurisdictions across the country to assess release practices, develop uniform standards, and consolidate crime prevention efforts. A major focus of the study's fourth volume addressed the problem of selection for parole, including a chapter devoted to ascertaining "which of a set of certain characteristics are significantly associated with outcome on parole."<sup>766</sup> This section approached potential factors in much the same way Burgess had over a decade earlier, albeit with 100,000 cases instead of 3,000 and a focus on qualitative assessment. A shorter section included in volume four addressed the use of prediction tables in evaluating risk.

While the *Survey* resisted dismissing actuarial prediction altogether, it concluded that existing actuarial tools remained underdeveloped. While the factors used for statistical prediction could serve as a guide for paroling authorities, they could not be considered exhaustive. Extant methods, including those used in Illinois, had not established criteria for a comprehensive list of factors that might be associated with parole outcome, the most significant categories to use in constructing an actuarial device, or determined "the best method for constructing a prediction device." The *Survey* argued, moreover, that the "degree of unreliability of some of the official statistics," including the use of documented violations as measures of parolee success or failure, significantly undermined the "validity" of prediction tools based on official records.<sup>767</sup> The Department of Justice found that the worth of actuarial tables instead lay in their emphasis of the "general traits which stamp offenders as 'good risks' or 'poor risks' for parole."<sup>768</sup>

Still, the compilers of the report conceded that predictive methods merited further research, with an eye towards developing more advanced statistical techniques and encouraging better record-keeping at the state level. Scholars in criminology and penology produced over 150

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<sup>766</sup> Department of Justice, *Survey of Release Procedures Vol. IV*, 305.

<sup>767</sup> Ibid, 652, 654.

<sup>768</sup> Ibid, 654.

publications, conference talks, and unpublished dissertations relating to adult and juvenile parole prediction, and countless others addressing statistical prediction of delinquency, probation outcome, and prison adjustment in the two decades following the Attorney General's *Survey*.<sup>769</sup> With the ebb of the 1920s and 1930s crime panic and the resulting reduction in prison populations, tinkering with parole may not have seemed essential for most jurisdictions. Illinois remained the only state to use parole prediction until the 1950s, when Minnesota's St. Cloud Reformatory experimented with Lloyd Ohlin's version of the Burgess method.<sup>770</sup>

Illinois sociologist-actuaries also forged ahead with prediction research in between life history interviews. Parole prediction in the state evolved in much the same way it was developed, through researchers hired based on professional connections with local universities. At first, Burgess recommended many of his students for the sociologist-actuary position, as highlighted in Chapter 5 of "Getting Out." Graduate students could earn a small salary working at the Joliet or Menard diagnostic depots while writing up their dissertations, and many did just that. In addition, with ready access to reams of data on incarcerated men and women, some budding sociologists were inspired to conduct research from the workplace. Both Lloyd Ohlin and Daniel Glaser, who received their PhDs in sociology from the University of Chicago, submitted doctoral dissertations on parole prediction using data they gathered while working for the Illinois State Penitentiary as sociologist-actuaries.<sup>771</sup> Hans W. Mattick earned a masters degree from the

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<sup>769</sup>Information Center on Crime and Delinquency of the National Council on Crime and Delinquency, *International Bibliography on Crime and Delinquency* 2, no. 1 (Bethesda: U.S. Department of Health, Education, and Welfare, 1964), 496-526. Related studies within this bibliography tallied by author.

<sup>770</sup> Victor H. Evjen, "Current Thinking on Parole Prediction Tables," in *Probation and Parole*, eds. Barbara A. Kay and Clyde B. Vedder (Springfield, Charles C. Thomas, 1936), 141.

<sup>771</sup> Daniel Glaser, "A Reformulation and Testing of Parole Prediction Factors" (PhD diss., The University of Chicago, 1954) and Lloyd E. Ohlin, "The Stability and Validity of Parole Experience Tables" (PhD diss., The University of Chicago, 1954). Ohlin also published a book



University of Chicago. In 1956 he finished “Parole to the Army,” a 400-page thesis based on data collected while working on the Selective Service Felon Project.<sup>772</sup> As Mattick would recall in an interview given shortly before his death, some of these young sociologist-actuaries would later hold key administrative and management roles at the national level, while others shaped criminal justice policy and practice within state and local jurisdictions. But from the 1940s through the 1970s, professional sociologists hailing from Illinois universities would help revise the Burgess method, create updated experience tables based on decades’ worth of prisoner data, and help drive the study of actuarial prediction in criminology.

Sociologists comprised the majority of the professional staffers at the Joliet and Menard diagnostic depots in the 1950s and were expected to prepare routine reports on each prisoner as well as further criminological research in the field of parole. Nine sociologists worked at the Joliet depot to prepare advisory materials for prison staff, wardens, and the parole board. During prisoner intake, these professionals conducted classification interviews with newly imprisoned men. Sociologists established rapport with each new inmate in order to secure a truthful life history, form a “personality appraisal” of each man, assess his “improvability,” and offer specific recommendations to prison staff as to his personal needs while incarcerated. The researchers communicated these assessments of “social behavior,” “personality characteristics,” “abilities,”

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based on this research in 1951. See Lloyd E. Ohlin, *Selection for Parole: A Manual of Parole Prediction* (New York: Russell Sage Foundation, 1951). Several other sociologist-actuaries would go on to write monographs based on research they conducted while working for the ISP. See Donald Clemmer, *The Prison Community* (New York: Holt, Rinehart and Winston, 1960) and Nathan Kantrowitz, *Close Control: Managing a Maximum Security Prison: The Story of Ragen’s Stateville Penitentiary* (New York: Harrow and Heston Publishers, 1996). Famous community organizer and Chicago PhD Saul D. Alinsky also worked at Joliet as a sociologist-actuary while earning his degree from the University of Chicago’s sociology department.

<sup>772</sup> John H. Laub, “Dialogue with Hans W. Mattick,” *University of Toledo Law Review* 10, no. 2 (Winter 1979), 269-270.

and vocational, educational, recreational and health requirements “in clear, commonplace terminology” so that the classification report could be useful for the man’s custodians at Pontiac, Joliet, Stateville, or Menard.<sup>773</sup>

The classification and prediction processes pioneered by the Division of the Criminologist’s sociologists attracted national and international attention. Barely a year after the Attorney General’s *Survey of Release Procedures* cast additional doubt on the validity of actuarial instruments, the Federal Bureau of Prisons began experimenting with prediction tables. H. Birnet Hovey, Warden’s Assistant at the Department of Justice Medical Center for Federal Prisoners, wrote Illinois’s Division of Pardons and Paroles in the summer of 1940 requesting the experience tables in use at Joliet-Stateville, Pontiac, and Menard, as well as information concerning their workings and success at the state level. The Federal Bureau of Prisons intended to use Illinois materials as a guide in compiling a dataset “to be used in connection with prediction of probable success on parole.” After receiving copies of the experience tables and other information from sociologist-actuary Sam Daykin and parole board Chairman W.C. Jones, Hovey thanked the two men and assured them that “we shall draw heavily upon the advanced

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<sup>773</sup> Roy G. Barrick, “Division of the Criminologist,” in *Annual Report of the Department of Public Safety for the Fiscal Year July 1, 1954 to June 30, 1955* (Springfield: State of Illinois, 1955), 71. The State Criminologist wrote in 1957 that the diagnostic depot’s sociologists also responded to interview requests from inmates—most often those receiving psychiatric therapy—sometimes acting as an arbiter between men and their families or prisoners and corrections staffers. In these interactions, sociologists could offer “valuable information concerning social, economic, cultural, and personal factors which are important in understanding the inmate and his illness.” See Roy G. Barrick, “Division of the Criminologist,” in *Annual Report of the Department of Public Safety for the Fiscal Year July 1, 1956 to June 30, 1957* (Springfield: State of Illinois, 1957), 110.

technique you have developed in your state” in what he anticipated would be a years-long process of “develop[ing] our factors and weights.”<sup>774</sup>

As prediction gained popularity as a criminological research topic in the 1950s, out-of-state and even international researchers and officials came to Illinois to tour the diagnostic depots. Mattick recalled that the Joliet diagnostic depot taught visitors from as far away as Cape Town, South Africa, “about our program of classification for prisoners.” College students attending schools across the country wrote in for materials concerning the classification program. Other groups of university students attended yearly clinical conferences run by the Division of the Criminologist “as a means of furthering our educational aims” for those interested in entering the penal field as practitioners or researchers. The Division ultimately created an internship program in penal sociology in the summer of 1956, inviting three graduate students from the University of Illinois to train at the Joliet Diagnostic Depot. State Criminologist Roy G. Barrick, head of the Division during Mattick’s stint as a sociologist-actuary, also acted as a consultant for state officials from Michigan and Iowa.<sup>775</sup>

Though classifying prisoners and compiling reports for the parole board consumed large chunks of the sociologists’ daily schedules, these materials allowed the institutional researchers to revise and refine parole prediction methods and experience tables. While many academics eager to test and sharpen prediction scales quibbled over the number of factors included in a “prediction battery” or gravitated towards Sam Daykin’s 1938 experience table—even a decade

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<sup>774</sup> H. Birnet Hovey to W.C. Jones, July 17, 1940; Sam Daykin to W.C. Jones, September 17, 1940; H. Birnet Hovey to W.C. Jones, September 28, 1940, all in Parole and Pardon Board, “Administrative Records, 1940-1943,” Record Series 403.001, Illinois State Archives.

<sup>775</sup> Hans W. Mattick, “The Division of the Criminologist,” 12-13, in Hans W. Mattick Papers, Box 180, Chicago History Museum and Research Center (CHMRC). Barrick corresponded with officials in other states, including Massachusetts, regarding Illinois’s administration of a “law pertaining to criminal psychopathic persons” and treatment of those individuals.

later—Lloyd Ohlin developed a method to adjust experience tables on an annual basis.<sup>776</sup> In his 1954 dissertation, Ohlin found that Daykin’s experience table proved outmoded and inaccurate, as observed rates of violation for 8,103 parolees from 1936-1944 were much lower than the violation rates the 1938 table predicted.<sup>777</sup> After testing two hypotheses related to this “time factor,” he concluded that this serious issue could be remedied by revising the experience table each year using the parole outcome of men paroled during the prior year.<sup>778</sup> But how to do this? Using his sample cases, Ohlin compared the number of total-parole-period violations in each prognostic score group to the number of men in his sample who violated during their first year on parole. He found that this ratio remained quite stable over time. This ratio would allow the sociologist readjusting a prediction table to estimate the number of parole violations that would be likely to occur during the entire parole period for the men who fell into each prognostic score group. As such, he would be able to readjust the expected violation rate for each prognostic score group on a yearly basis, using cases of men who had been paroled during the year prior.

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<sup>776</sup> Karl F. Schuessler, “Parole Prediction: Its History and Status,” *Journal of Criminal Law, Criminology & Police Science* 45, no. 4 (1954-1955), 429. For sample studies in the validation of Daykin’s revision of the Burgess method, see Pontiac sociologist-actuary Michael Hakeem’s “The Validity of the Burgess Method of Parole Prediction,” *The American Journal of Sociology* 53, no. 5 (March 1948), 376-386 and John L. Gillin, “Prediction of Parole Success in Wisconsin,” *Journal of Criminal Law and Criminology* 34, no. 4 (1943-1944), 236-239.

<sup>777</sup> Recall that Sam Daykin based his 1938 experience table on a sample of men paroled from 1925-1935.

<sup>778</sup> Ohlin hypothesized first that: “The predictive stability of time efficient factors will be maintained if the basis of subcategory classification accurately reflects the changing opportunities and conceptions which alter the conditions for parole adjustment from one time period to another.” As such, his dissertation needed to propose a method to remedy errors in prediction caused by this time problem. He set out to test a second hypothesis: “Errors in prediction for new cases can be reduced by utilizing estimated total-parole-violation rates as a basis for routine readjustment of the prediction tables.” Tables adjusted on a yearly basis, Ohlin figured, would allow for stability in the accuracy of prediction tables from the original sample of paroled men to those paroled in follow-up samples. Ohlin, “Stability and Validity,” 39-42.

His 1951 monograph, *Selection for Parole*, outlined this process and recommended that paroling authorities also use the annual revision to assess the reliability of each predictive factor that contributed to final prognostic scores. Illustrating loss in predictive power could help institutional sociologists eliminate unreliable factors when necessary.<sup>779</sup> In testing the reliability of the twenty-seven factors in Daykin's 1938 table, Ohlin discovered that fifteen of them did not meet "the statistical standards necessary for making effective distinctions between parole successes and failures."<sup>780</sup> Ohlin's revised table, used at Menard and Joliet-Stateville, included the following twelve factors: "type of offense," "sentence," "type of offender," "home status," "family interest," "social type," "work record," "community," "parole job," "number of associates," "personality," and "psychiatric prognosis." A few years later, Daniel Glaser would introduce a similar pared-down prediction instrument—this one with only seven factors—at Pontiac. *Selection for Parole* became a classic in the field. In 1963, the United States Courts' Assistant Chief of Probation argued that the monograph "should be in the library of every parole board member, penal administrator, and correctional worker."<sup>781</sup>

Federal funding pledged towards the standardization of parole selection standards and towards further study of parole prediction likely kept interest in Ohlin's work alive among corrections professionals and criminologists. Ohlin's personal involvement in federal crime control initiatives couldn't have hurt, either. John F. Kennedy's President's Committee on Juvenile Delinquency and Youth Crime welcomed social scientists, including Ohlin, into the federal policy conversation as never before. The government officials who brought social scientists into the fold "sought to reform the social conditions that gave rise to delinquency," an

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<sup>779</sup> Ohlin, *Selection for Parole*, 119-121.

<sup>780</sup> Ibid, 53.

<sup>781</sup> Evjen, "Current Thinking," 139.

effort based on theory advanced by Ohlin and his Columbia colleague Richard Cloward.<sup>782</sup> Ohlin and Cloward developed “opportunity theory,” arguing that a person’s proclivity for criminal activity did not originate in cultural or individual characteristics, but was instead triggered by childhood neglect, a dearth of resources, and “punitive responses to... [everyday] behavior in childhood.” To curtail juvenile delinquency, therefore, government would need to build institutions where disadvantaged children could access “education, training, and development programs.”<sup>783</sup> Kennedy officials convinced by this theory and looking to translate it into policy hired Ohlin and other scholars to develop and assist with programs aimed at crime prevention. By 1962, the Committee promoted Ohlin from advisor to chief researcher.

Though primarily focused on juvenile delinquency, the President’s Committee also helped support the National Parole Institutes of the National Council on Crime and Delinquency (NCCD). The National Parole Institutes collected and reported information on parole in state jurisdictions to the federal government and helped train parole board members at professional conferences. The NCCD also created the Uniform Parole Report (UPR) organization in 1966 to collect and distribute statistical information on parole decisions and characteristics of paroled men, women, and juveniles. The Parole Institutes and the UPR shared a common goal: to

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<sup>782</sup> Historian Elizabeth Hinton shows that the Committee’s programming focused “almost explicitly on black youth.” The delinquency prevention programs instituted under John F. Kennedy established a foundation for the Johnson administration’s War on Poverty initiatives. As Hinton argues, Johnson reoriented these programs rhetorically, centering crime control measures “in African American urban neighborhoods as a larger, more expansive fight against poverty.” Though the 1960s offered hope for a robust push towards racial and economic justice, sweeping changes made during Johnson’s War on Poverty led to “an increasingly punitive orientation in domestic urban policy.” Hinton, *From the War on Poverty to the War on Crime*, 30-31, 35.

<sup>783</sup> Ibid, 36.

improve parole board members' ability to make release decisions.<sup>784</sup> These two initiatives were in keeping with federal crime control policy, and the United States government continued to fund such studies after the passage of the Safe Streets Act of 1968, which invested \$400 million to modernize American law enforcement. The newly-created Law Enforcement Assistance Administration (LEAA) would distribute and direct this funding.<sup>785</sup> The LEAA poured money into projects related to probation and parole—funding research studies to develop federal guidelines, building up corps of parole and probation officers at the state level, and funding other programs to assist parolees with their transition from prison to the community. It dispensed \$32 million to federal and state-level probation and parole programs and research projects in 1971 alone.<sup>786</sup>

The year prior, the NCCD and the United States Board of Parole had applied to the LEAA for a small slice of its funding: a grant to support a three-year study of parole decision-making. This grant application was in part prompted by “unprecedented criticism” of the U.S. Parole Board from lawmakers and the press. These individuals and media outlets railed against the federal board in much the same way the *Tribune* attacked Illinois paroling authorities,

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<sup>784</sup> George J. Reed and William E. Amos, “Improved Parole Decision-Making,” *Federal Probation* 36, no. 1 (March 1972), 16. Uniform Parole Reports project of the National Council on Crime and Delinquency, *Parole in the United States: 1976 and 1977* (Washington, D.C.: U.S. Government Printing Office, 1978), 19. Authorities concerned themselves with release on parole and the supervision of parolees in part because such a large proportion of men, women, and juveniles were released by parole boards. In 1966, 70% of released men and women in the United States were paroled. Vincent O’Leary, “Issues and Trends in Parole Administration in the United States,” *American Criminal Law Review* 11, no. 1 (Fall 1972), 99.

<sup>785</sup> By 1973, the LEAA had a yearly budget of \$850 million. Hinton, *From the War on Poverty to the War on Crime*, 2.

<sup>786</sup> U.S. Congress, House, Subcommittee No. 3 of the House Judiciary Committee, *Corrections-Federal and State Parole Systems: Hearings on H.R. 13118 and Identical and Related Bills*, 92<sup>nd</sup> Cong., 1972, Testimony of the Honorable Richard W. Velde, Associate Administrator of the Law Enforcement Assistance Administration, 543.

charging board members with “secrecy, arbitrariness, capriciousness, susceptibility to Executive pressure... [and] failure to specify reasons for parole denial...”<sup>787</sup> After the LEAA awarded the funding, the project’s leaders, Drs. Donald M. Gottfredson and Leslie Wilkins began the work they hoped would address these critiques. They set out to develop and demonstrate “model programs to provide information to paroling authorities for improving parole decisions by an increased utilization of experience in these decisions.”<sup>788</sup> As Wilkins and Gottfredson described it, they and other research workers from the NCCD collaborated with the U.S. Board of Parole for a series of studies, eventually producing fourteen reports summarizing their efforts.<sup>789</sup> Cooperation from the Federal Bureau of Investigation, the Federal Bureau of Prisoners, and state parole systems were also crucial to the project. Nineteen state paroling authorities, including the Illinois parole board, filled out a survey to provide the project with “information on perceived objectives and information needs of the paroling decision.” Wilkins and Gottfredson also

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<sup>787</sup> Don M. Gottfredson, Leslie T. Wilkins, Peter B. Hoffman, and Susan M. Singer, *The Utilization of Experience in Parole Decision-Making: Summary Report* (Washington, D.C.: U.S. Government Printing Office, 1974), 8.

<sup>788</sup> *Ibid.*, vii.

<sup>789</sup> The National Advisory Committee of the National Probation and Parole Institutes acted as an advisory body to the research project. The Committee was made up of members of the U.S. Board of Parole, the Parole Council of the NCCD, the Association of Paroling Authorities, the Interstate Probation and Parole Compact Administrators Association, and the Administrative Office of the U.S. Courts. A scientific advisory group of researchers nominated by the LEAA, the U.S. Board of Parole, Wilkins, and Gottfredson provided guidance “focused upon the scientific aspects” of the project. The supplementary reports included thirteen printed pamphlets: *Development of a Data Base for Parole Decision-Making*; *Parole Decision-Making Coding Manual*; *The Problem of Overlap in Experience Table Construction*; *Do Experience Tables Matter?*; *Information Selection and Use in Parole Decision-Making*; *Inefficient Statistics*; *The Operational Use of an Experience Table*; *Paroling Policy Feedback*; *Paroling Policy Guidelines: A Matter of Equity*; *Parole Selection: A Balance of Two Types of Error*; *Information Overload: Peace or War with the Computer*; *The Reliability of Information in the Parole Decision-Making Study*; *The Practical Application of a Severity Scale*; and one film, *The Balance of Time*, directed by Lew Shaw. *Ibid.*, vii, 1, 5.



collected opinions and observed the work of parole officials from forty state agencies at three national meetings in 1971, 1972, and 1973.

As a direct result of the research conducted under the LEAA grant, the U.S. Parole Board began testing a set of parole decision-making guidelines developed by Wilkins and Gottfredson's work, in part to ensure consistent, timely, and fair parole decisions. By 1972, the chairman of the United States Board of Parole emphasized the importance of constructing a stable and accurate experience table for use at the federal level while testifying before members of the House Judiciary Committee. Chairman George Reed told the assembled representatives that "the ultimate goal" of the LEAA-funded research project "is the improvement of parole decisionmaking [sic] by utilizing 'base expectancy' or 'experience' profiles with which the members of the Board may compare similar offender types and their adjustments to the community while on parole." Though the decision-making project built on the work of "Glueck, Ohlin, Glaser, and others," generous federal funding would allow Gottfredson and Wilkins to follow-up with paroled individuals over a period of five years to find out "what really happened to these people after they are released from prison" and further assess the validity of their actuarial method.<sup>790</sup>

The paroling policy guidelines eventually developed took the "form of a two-dimensional grid" in which the seriousness of the offense for which the prisoner was serving time could be mapped on the vertical axis and his or her parole prognosis charted on the horizontal axis. The meeting point of these two measurements on the grid would determine the length of the

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<sup>790</sup> U.S. Congress, House, Subcommittee No. 3 of the House Judiciary Committee, *Corrections-Federal and State Parole Systems: Hearings on H.R. 13118 and Identical and Related Bills*, 92<sup>nd</sup> Cong., 1972, Testimony of the Honorable George J. Reed, Chairman, U.S. Board of Parole, 379.

prisoner's sentence, assuming good conduct within the institution.<sup>791</sup> This model allowed for consideration of the offense characteristics alongside the offender's characteristics that measured

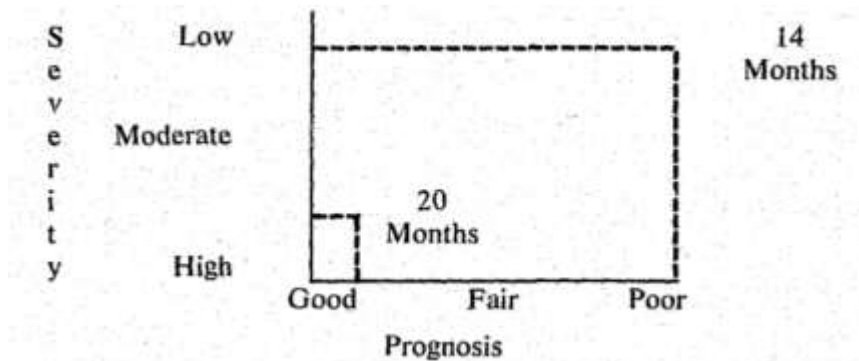


Figure 20 The chart above shows options for a high severity offender with a good parole prognosis, who might serve 20 months before consideration for parole, and for a low severity-poor prognosis prisoner, who might serve 14 months before parole consideration. From Wilkins and Gottfredson, *The Utilization of Experience in Parole Decision-Making*, 14.

his or her parole prognosis. To measure parole prognosis, the U.S. Parole Board used an actuarial device called a “salient factor score,” a pared down version of Burgess’s experience table.

Federally-funded studies found that the “simple additive scoring of predictive items” used to arrive at prognostic scores in Illinois forty years earlier predicted parole outcome “as well as, and sometimes better than, those constructed by use of mathematically more sophisticated methods.”<sup>792</sup> Researchers working for the United States Parole Commission praised the

<sup>791</sup> Peter B. Hoffmann, “History of the Federal Parole System: Part 2 (1973-1997),” *Federal Probation* 61, no. 4 (December 1997), 49.

<sup>792</sup> James L. Beck, “Development of Explicit Decision Guidelines by the United States Parole Commission,” in *Federal Parole Decision-Making Selected Reprints, Volume VI* (1986), 93. Researchers defined persons with favorable outcomes on parole as those who had not accrued any new conviction resulting in a sentence of sixty days or more while on parole, had not been returned to prison for any technical violation of the parole agreement, and had not absconded from parole custody. Former prisoners with unfavorable parole outcomes were those who had been convicted of a crime and sentenced to sixty days or more in jail or prison while on parole, returned to prison due to a technical violation of the parole agreement, or were subject to an “outstanding absconder warrant.” Peter V. Hoffman and James L. Beck, “Parole Decision-Making: A Salient Factor Score,” *Federal Parole Decision-Making: Selected Reprints, Volume I* (1974-1977), 48.

“simplicity and ease of scoring of a Burgess type device,” features which “commend[ed] it for operational use.”<sup>793</sup>

The “Burgess-type” salient factor score in use between 1973 and 1977 had nine factors, eight of which related to the prisoner’s past and one to future plans.<sup>794</sup> Researchers arrived at the final predictive factors through a process of elimination. First, they tested sixty-seven variables extracted from prisoner case files considered potentially predictive of success on parole. Like Bruce, Burgess, and Harno before them, federal researchers interviewed staff of the U.S. Board of Parole to identify predictive items for testing. Staffers were later credited with twenty-five of the factors considered for inclusion in the final prognostic score.<sup>795</sup> Each of these potentially salient factors, whether identified by parole board staffers or researchers, fit into four general categories of information deemed significant in other parole prediction studies: the “nature and circumstances” of the offense committed; the “length and severity” of the individual’s prior

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<sup>793</sup> Peter B. Hoffman and Sheldon Adelberg, “The Salient Factor Score: A Nontechnical Overview,” *Federal Probation* 44, no. 1 (March 1980), 44.

<sup>794</sup> Paroling policy guidelines, including the salient factor score, were first instituted at five federal institutions in October, 1972. By 1973, the Chairman of the U.S. Board of Parole submitted a proposal for the reorganization of the board and revision of its procedures to the Department of Justice. This proposal included the institution of the explicit decision-making guidelines demonstrated visually in Figure 1. Researchers constructed this first version of the salient factor score based on a sample of 902 individuals paroled in 1970, with a two-year follow-up, and later validated it using a larger sample of 1,581 prisoners released on parole in 1970. A final validation check of the instrument was made on 1,011 persons paroled in 1972, also with a two-year follow-up period. Beck, “Development of Explicit Decision Guidelines,” 93. Hoffman, “History of the Federal Parole System: Part 2,” 49. Peter B. Hoffman, “History of the Federal Parole System,” United States Parole Commission, May 2003, <https://www.justice.gov/sites/default/files/uspc/legacy/2009/10/07/history.pdf>. Also see Peter B. Hoffman, Barbara Stone-Meierhoefer, and James L. Beck, “Salient Factor Score and Releasee Behavior: Three Validation Samples,” *Law and Human Behavior* 2, no. 1 (1978), 49.

<sup>795</sup> Herbert Soloman, “Parole Outcome: A Multidimensional Contingency Table Analysis,” in *Classification for Parole Decision Policy*, eds. Donald M. Gottfredson, Colleen A. Cosgrove, Leslie T. Wilkins, Jane Wallerstein, and Carol Rauh (Washington, D.C.: U.S. Government Printing Office, 1978), 311.

criminal record; “personal history variables”; and elements related to the prisoner’s behavior within the corrections institution.<sup>796</sup> Next, the pieces of information that predicted favorable or unfavorable outcome on parole were separated from the rest. Careful scrutiny of each of these potential predictive factors allowed for elimination of those judged ethically problematic, those that did not appear often enough in the files to justify use, and those that overlapped with other factors. The final nine items included in the salient factor score are shown in the figure above

TABLE 3a  
9-ITEM BURGESS B.E.

Variable Number	Description	IF	Score
073	Total Convictions	1	2
		2 or 3	1
		more than 3	0
031	Prior Incarcerations	0	2
		1 or 2	1
		more than 2	0
025	Age at First Commitment	18 or older	1
		under 18	0
127	Commitment Offense	not Auto Theft	1
		Auto Theft	0
032	Probation or Parole Revocations	None or Probation Revoked	1
		Parole Revoked or both Probation and Parole Revoked	0
064, 065	Drug Use	No use of Opiates and No use of Sedatives	1
		Use of Opiates or Sedatives	0
289	Grade Claimed	12 or higher	1
		less than 12	0
204	Employment in Last Two Years of Civilian Life	more than 6 months	1
		6 months or less	0
082	Planned Living Arrangement	Wife and/or Children	1
		Other	0

Figure 21 The nine-item Burgess-style experience table as tested by Don M. Gottfredson and colleagues for the United States Parole Board in 1977. Note that the first two factors are weighted more heavily than the rest. Found in Gottfredson et al, “Working Papers on Parole Prediction for the United States Parole Commission,” 19.

and listed here for reference: (1) number of previous convictions; (2) number of prior incarcerations; (3) age at time of first period of incarceration; (4) whether or not the commitment offense involved auto theft; (5) whether the individual had ever had parole revoked; (6) history of drug use; (7) level of education; (8) stability of employment status or school attendance; (9) nature of living arrangement as outlined in release plan.<sup>797</sup> When scored, these factors produced a number between zero and eleven—the higher the score, the

<sup>796</sup> Beck, “Development of Explicit Decision Guidelines,” 93. A list of the sixty-seven items tested can be found in Don M. Gottfredson, W.H. Brown, and G.E. Pasela, “Working Papers on Parole Prediction for the United States Parole Commission,” *Supplement to Classification for Parole Decision Policy* (March 1977): Appendix A.

<sup>797</sup> Hoffman and Beck, “Parole Decision-Making,” 49-51. Factors judged ethically questionable included “prior arrests not leading to conviction.”

higher the likelihood of success on parole. The version of this experience table adopted in April of 1977 slightly revised several of these predictive items—for example, adding forgery to the auto theft factor—and reduced the number of total factors to seven items by eliminating education level and planned living arrangement for the parole period.

The federal system’s salient factor prognosis relied on Illinois research for more than just its simple, unweighted scoring method. The small number of predictive factors comprising the salient factor score represented a trend in actuarial prediction popularized by University of Chicago sociologist Albert Reiss, a Burgess advisee and Ohlin protégé. Reiss pioneered the use of pared-down prediction devices in his 1949 dissertation. Though experience tables with a large number of predictive factors were generally considered more reliable at the time, Reiss argued instead that tables with a small number of “stable and efficient predictors would yield more accurate and efficient prediction in the long run than a large number of predictors.”<sup>798</sup> The pared-down versions of Burgess’s experience table caught on among Illinois sociologist-actuaries in the early 1950s—Ohlin’s experience table for Joliet-Stateville and Menard used twelve factors, while Daniel Glaser’s Pontiac table used seven.

By the 1950s, Glaser and Ohlin’s parole prediction research also emphasized the predictive power of factors related to the offender’s crime and criminal history, much as federal researchers would two decades later. As the earlier Burgess-style experience table pictured above and the 1977 revision show, researchers weighted prior convictions and prior incarcerations slightly more heavily than other factors. This indicated the perceived importance of criminal

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<sup>798</sup> Albert J. Reiss, “The Accuracy, Efficiency, and Validity of a Prediction Instrument” (PhD diss., University of Chicago, 1949), 226. Reiss also posited that the potential benefit of adding factors would decrease as sampling errors increased. He was the first to argue explicitly for pared-down prediction instruments. See Harcourt, *Against Prediction*, Kindle Loc. 864.

history in the prediction of parole outcome. A similar pattern can be observed in the revisions of Burgess's experience tables in Illinois, particularly in Ohlin's 1951 experience table and Glaser's 1954 revision for Pontiac. In Sam Daykin's 1938 experience table, only seven of twenty-seven factors relate directly to the offender's crime or criminal history, as compared to over one-third of the predictive factors used in Ohlin's table and three of seven factors in Glaser's table.<sup>799</sup> Glaser's method also added to the statistical dominance of

Factors and Categories		Factors and Categories	
1. Age at First Leaving Home or Foster Home for Six Months or More		5. Total Criminal Record	
A. 20 or Over	2	A. First Offender--Crime Against Person	1
B. 18 or 19	1	B. First Offender--Crime Against Property; Present Sentence and Previous Misdemeanors; Crimes Against Person Only--Two or More; One or More Crimes Against Property and One or More Crimes Against Person	0
C. 17	0	C. Crimes Against Property Only--Two or More	-2
D. 16	-1		
E. 15 or Under	-2		
2. Social Development Pattern:		6. Schooling Completed	
A. Respected Citizen	2	A. First Year High School or More	1
B. Fairly Conventional	1	B. 7th or 8th Grade	0
C. Inadequate	0	C. 6th Grade or Less	-2
D. Ne'er-do-well	-1		
E. Dissipated	-2	7. Use of Prison Time	
F. Floater	-2	A. Constructive	1
G. Socially Maladjusted	-2	B. Academic School	0
3. Work Record		C. Unconstructive	-1
A. Regular, Sustained or Student	1		
B. Sporadic, Casual or None	0		
4. Most Serious Previous Sentence			
A. No Previous Arrest	2		
B. Arrest and Release or Fine, Jail, State Farm, House of Correction, Supervision or Probation; Prison, Reformatory, Mental Hospital for Adult Offense	0		
C. Training, Reform or Industrial School, Mental Hospital for Juvenile Offense	-2		

Figure 22 Daniel Glaser's seven-factor experience table with numerical scoring guide. Note that the three categories involving the offender's crime and criminal history are generally weighted more heavily, often accruing the highest or lowest scores permitted for a single factor, +2 or -2. Glaser, "A Reformulation and Testing of Parole Prediction Factors," 283.

<sup>799</sup> Ohlin's five factors related to the crime for which the offender was presently serving time or his criminal history were: "type of offense, sentence, type of offender, number of associates, and social type." The term "social type," as defined by Burgess, refers to "the attitudes, values, and philosophy of life derived [by the offender] from copies presented by society. The role which a person assumes and to which he is assigned by society creates social type." Social type is included as a factor reliant on criminal history assessments because so many of the descriptions for each type used to evaluate prospective parolees included the crimes they had most likely committed in the past. For example, Ohlin's description of the "floater," a person who "drifts about the country, rides freights, lives in jungles, gets tagged for vagrancy, and frequently commits minor crimes en route." Six of Ohlin's ten social type categories involve reference to criminal activity. Ohlin, *Selection for Parole*, 52, 127. For Burgess's definition of "social type," see Ernest W. Burgess as quoted in Glaser, "A Reformulation," 194. Glaser's "social development pattern" factor is similar to Ohlin's "social type" factor, and three of his seven social development pattern types mention prior criminal activity. A "socially maladjusted" person, by Glaser's definition, is someone who "seems to have been unable to adjust to society at all, who by reason of major personality deviations or obsessive criminal orientations is more remote from the respected citizen than any of the other categories." Note, too, that the social development patterns identified by Glaser are arranged on a continuum, from most socially favorable to most socially unfavorable, in contrast to Ohlin's "series of discrete types." Glaser, "A Reformulation," 204, 206.

criminal history in the weighting of the final prognostic score, as shown in Figure 22. The 1977 seven-factor revision of the federal experience table excised two factors arguably unrelated to the individual's criminal history, leaving five factors describing the prisoner's criminal history. Though scoring was still conducted in the Burgess style, using simple addition, three of five factors involving criminal history were weighted slightly more heavily than the rest. Once the salient factor score was calculated, it would be mapped on a grid with the severity of the offense for which the prisoner was currently serving time.<sup>800</sup> Under the guidelines for parole decision-making dictated by the salient factor score and the offense severity index, past criminal history determined each prisoner's risk score and the time they would spend incarcerated.

Still, almost immediately following the federal government's development of the salient factor score, Canadian psychologists developed an actuarial instrument that embraced a more diverse set of factors. The Level of Service Inventory-Revised (LSI-R) includes fifty-four questions, which are divided into ten categories of predictive factors thought to be related to recidivism: (1) criminal history, (2) education and employment, (3) financial, (4) alcohol and drugs, (5) family and marital, (6) accommodation, (7) leisure and recreation, (8) emotional and personal, (9) companions, and (10) attitudes and orientations.<sup>801</sup> The LSI-R resurrected the lengthier questionnaire format and two broad categories of factors first seriously considered by Ferris Laune and Nathan Leopold in the 1930s. The blending of both a large number of static, or unchanging, and dynamic, or elastic, factors first realized within Laune's model achieved practical application with the LSI-R's fifty-four item questionnaire. Additionally, both the LSI-R

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<sup>800</sup> See Appendix IV.

<sup>801</sup> Ashley Leigh Dickinson, "Utility of the Level of Service Inventory-Revised (LSI-R) in Predicting Recidivism: Do Gender and Offense Type Matter," (PhD diss., Indiana University of Pennsylvania, 2014), 18.

and Laune's method include factors related to the prisoner's emotions and those designed to measure his attitudes and orientations toward himself, his crime, and his future. Though Laune foregrounded prisoners' hunches in his actuarial model, his insistence that the measurement of change over time be taken seriously in prediction research remains his most important contribution to the field. The indices Laune used to measure change, related to the individual's "social adjustment" and attitudes, are strikingly similar to those employed by the LSI-R.<sup>802</sup> And like Laune, who hypothesized in 1936 that "if some means could be found of determining attitudes periodically, one might be able to ascertain the exact point of greatest probable success on parole," the creators of the LSI-R intended that their questionnaire capture and assess the

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<sup>802</sup> Though the exact questions used in the LSI-R are closely guarded corporate secrets hidden behind a paywall, the broad categories and questions found in scholarship on the instrument evoke factors first introduced by Leopold and Laune. Questions designed to gauge the individual's use of leisure and recreation time match up neatly with Laune's "factors connected with high life." And the many questions developed by Laune and Leopold to understand the prisoner's position within social groups inside and outside of the institution proves eerily similar to the "companions" category in the LSI-R. The LSI-R's general questions include: Does the individual in question have "criminal friends and acquaintances"? Is he a "social isolate"? By comparison, Laune asks a variety of similar questions, including: "Do you make inquiries about a man's reputation before becoming friendly with him?" "Were you the only one in your group engaged in criminal activity?" "Are you very particular about the people with whom you associate?" "Have you many friends?" "Is it easy to become friendly with you?" "Did you make friends only with cultured people?" "Have any of your friends on the outside police records?" Additionally, a focus on the prisoner's emotional state and personality measured in Laune's "psychological factors" seems closely related to the LSI-R's emotional and personal category. And the measurement of the prisoner's attitude toward crime and "convention" comprising the final section of the LSI-R questionnaire lines up neatly with Leopold and Laune's questions related to attitudinal elements included under their "psychological factors" category. The LSI-R's general questions read: "Supportive of crime?" "Unfavorable toward convention?" A sampling of Laune's questions follows: "Have you any moral scruples against stealing?" "Did you ever live in a house of ill-fame?" "Do you think the intimidation of witnesses is a good way to beat a rap?" "If something that you could steal was very necessary to your complete happiness and there was an excellent chance that you would not get caught, would you steal it?" "Are you often influenced by what others may think of your actions?" "Would you be uncomfortable if you had to remain in one town very long?" "Would you be happy just taking it easy?" Laune, *Predicting Criminality*, 32-33, 146-150. Richardson, "Minding the Gap," Appendix B.



most recent information for each individual.<sup>803</sup> The LSI-R can be administered periodically, generating a new risk score each time. It is currently the most popular prediction tool among American state jurisdictions that “have not adopted their own state-specific instrument” and is most often used by courts at the sentencing stage.<sup>804</sup>

Indeed, our criminal justice system has embraced actuarial tools like the LSI-R at every stage of law enforcement, from the apprehension of suspects to the determination of parole eligibility. Many risk assessment tools are still developed in much the same manner as the Burgess predictive method, albeit on a larger scale. Social scientists examine a population of former prisoners and collect hundreds of pieces of information about their lives. Then, they track these individuals over a period of time, usually several years, to determine which “traits are associated with further criminal activity.” Social scientists now know “that well-designed risk assessment tools ‘work,’ in that they predict behavior [slightly] better than unaided expert opinion.”<sup>805</sup>

Actuarial instruments in use today are explicitly touted as “race-neutral” tools that replace subjective and biased human evaluations of cases with scientific and objective judgment.<sup>806</sup> The tools themselves are shrouded in mystery, as the exact algorithms used in risk prediction are often developed by private corporations that jealously guard their components. But the jurisdictions that consult actuarial math before setting bail, sentencing convicted individuals,

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<sup>803</sup> Laune, *Predicting Criminality*, 8.

<sup>804</sup> Richardson, “Minding the Gap,” 40.

<sup>805</sup> Risk assessment tools accurately predict outcome in 10% more cases than do experts without the assistance of actuarial scores. Anna Maria Barry-Jester, Ben Casselman, and Dana Goldstein, “The New Science of Sentencing,” *The Marshall Project*, August 4, 2015, <https://www.themarshallproject.org/2015/08/04/the-new-science-of-sentencing>.

<sup>806</sup> Beth Schwartzapfel, “Can Racist Algorithms Be Fixed?” *The Marshall Project*, July 1, 2019, <https://www.themarshallproject.org/2019/07/01/can-racist-algorithms-be-fixed>.

and approving applications for parole insist that risk scores allow them to bypass implicit biases and combat racial disparities. Still, we know that these tools draw on existing criminal justice data—including arrest and recidivism rates—generated by a system that polices African Americans and Latinxs very differently than white suspects and defendants. As Kara Gotsch of The Sentencing Project argues, “There’s racial bias inherent at every step of the criminal justice system... so an algorithm that uses those things to determine whether to release you is not going to be fair to people of color.”<sup>807</sup> Almost all risk assessment models consider prior criminal activity the most predictive factor, and weight it accordingly. Algorithms in use today, like the Burgess model, also account for offenders’ socioeconomic characteristics, which are generally highly correlated with race and ethnicity. A developer of the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) admitted in 2016 that it is difficult to construct a risk assessment measure that does not include these factors, including poverty and joblessness: “If those are omitted from your risk assessment, accuracy goes down.”<sup>808</sup> These markers of socioeconomic disadvantage invariably drive up an offenders’ risk score.

Without access to the full questionnaire and assessment criteria used in the compilation of risk scores like COMPAS and the LSI-R, it is difficult to analyze them in great depth or to compare them to the historical predictive models “Getting Out” has explored. But news organizations like *ProPublica*, *The New York Times*, and *The Marshall Project* tell us that we can be certain about their effects. Risk scores considered in sentencing and the other decision-

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<sup>807</sup> Kara Gotsch as quoted in Eli Hager, “How Bill Barr’s COVID Prisoner Release Plan Could Favor White People,” *The Marshall Project*, March 28, 2020, <https://www.themarshallproject.org/2020/03/28/how-bill-barr-s-covid-19-prisoner-release-plan-could-favor-white-people>.

<sup>808</sup> Julia Angwin, Jeff Larson, Surya Mattu, and Lauren Kirchner, “Machine Bias,” *ProPublica*, May 23, 2016, <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>.

making processes integral to the operation of the carceral state consistently rate poor people and minorities as high-risk offenders.<sup>809</sup> The use of these actuarial tools leads to grave and profound consequences within the criminal justice system. Most recently, Attorney General Bill Barr's plan to release incarcerated persons at risk of dying from the coronavirus instructed the federal prison system to "release only those prisoners who receive the minimum possible score on a 'risk assessment' algorithm called PATTERN." According to Justice Department statistics, only seven percent of black men in federal institutions would receive low enough scores on PATTERN for medical release, as compared with thirty percent of white men.<sup>810</sup>

As for Illinois, the state may have abandoned parole in 1978, but its lawmakers and officials have come to embrace risk assessment. Burgess's legacy lives on in the Windy City. There, the University of Chicago's Crime Lab has developed data sets to predict where shootings might occur within a six-block radius. The city's mayor, it's said, is "a big fan of the idea of predictive policing."<sup>811</sup>

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<sup>809</sup> Sonja B. Starr, "Sentencing, by the Numbers," *The New York Times*, August 11, 2014, A17;

<sup>810</sup> Hager, "COVID Prisoner Release Plan."

<sup>811</sup> David Runciman, review of *The Nation City: Why Mayors are Now Running the World*, by Rahm Emanuel, *London Review of Books* 42, no. 12 (June 2020).

## APPENDICES

### **Appendix I** **TIMELINE**

#### **1895**

- Acting under the influence of Governor John P. Altgeld, the state legislature passes the General Adult Parole Act, applicable to the prisons for adult males at Joliet and Menard. This first parole law applied to persons convicted of misdemeanors and all felonies except for treason and murder. Under this act, the Board of Prison Management (comprised of the wardens and the penitentiary commissioners) acted as a parole board.

#### **1897**

- The Act of 1897 adds manslaughter and rape to the excepted crimes. It also instituted an habitual criminal exception, which stated that the parole law did not apply to persons who had previously been sentenced to the penitentiary in Illinois or any other state.
- A provision for indeterminate sentencing is added for all crimes except for treason, murder, manslaughter, and rape. It reads: The court “shall not fix the limit or duration of the sentence and the term of imprisonment of any person so convicted, and sentence shall not exceed the maximum term provided by law for the crime for which the person was convicted and sentenced, making allowance for good time as now provided by law.” This provision did not set a minimum term of incarceration for any crime.
- Permits the creation of a State Board of Pardons to exercise paroling powers. Stipulates that the board must be made up of three persons appointed by the Governor and approved by the Illinois State Senate.

#### **1899**

- The legislature establishes the minimum time to be served on an indeterminate sentence: “not less than one year.”
- Repeal of the habitual criminal exception included in the Act of 1897.

#### **1917**

- The legislature passes the Civil Administrative Code and creates the Department of Public Welfare. This act abolishes the former Board of Pardons and creates a new Board of Pardons and Paroles as a subdivision of the Department of Public Welfare. The new Board is headed by the Superintendent of Pardons and Paroles.
  - The Department of Public Welfare is made up of a director, an assistant director, and six divisions, presided over by: an alienist, a criminologist, a fiscal supervisor, the superintendent of charities, the superintendent of prisons, and the superintendent of pardons and paroles.
  - This new law also included provisions for closer supervision of parolees, allowed prisoners serving definite sentences to be paroled after serving the minimum time set by law for their crime, and set measures to ensure cooperation between the committing authorities in each county and the state parole agents.

### **1919**

- The Illinois state legislature provides for the Division of Pardons and Paroles to hire twenty parole agents. An appropriation of \$194,000 is made to the Division to pay salaries and cover travel expenses.
- Parole agents must visit parolees in their care at least once per month.
- The Illinois parole law requires that each person paroled from a corrections institution must serve at least six months on parole.
- Out-of-state paroles are introduced.

### **1921**

- The Chicago parole office consists of one assistant chief parole agent, five parole agents, and five sergeants of police. The police sergeants were assigned to the parole office by the Chicago Police Department.

### **1924**

- Stateville Penitentiary opened.

### **1927**

- On July 6, 1927, a bill amends the Civil Administrative Code, stipulating that “The Parole Board shall consist of the Supervisor of Paroles, who shall be chairman, and nine other members.” The nine members could be appointed by the Governor and did not need to occupy any other position in the Department of Public Welfare.
- The Board of Paroles is separated from the Board of Pardons.
- The Bureau of Pardons and Paroles is placed under Department of Public Welfare jurisdiction.
- The responsibility for supervision and after-care of paroled men and women rests with the Supervisor of Paroles and with the Superintendent of Supervision. The Superintendent of Supervision is subordinate to the Supervisor of Paroles.

### **1928**

- The Division of Supervision of Parolees consists of 60 personnel, including the Superintendent of Supervision, two assistant superintendents of parole agents, thirty-eight male parole agents, six female parole agents, among others. Twenty-four male agents work out of the Springfield office, while fourteen are assigned to the Chicago office.
  - Chicago parole agents visit each paroled man and his sponsor at least once per month. The paroled man was required to report to the Chicago office on the first day of each month.

### **1930**

- Reformatory for Women at Dwight is opened to replace the Women’s Prison at Joliet.

### **1933**

- Illinois state corrections facilities lose their legal identities as institutions and become branches of the Illinois State Penitentiary System. Each branch of the penitentiary is intended for a specific population of prisoners.

- Diagnostic Depots are established at Joliet and Menard for the purpose of studying and classifying newly admitted prisoners.
- A Classification board, consisting of a psychiatrist, physician, psychologist, and sociologist is appointed to assign new prisoners to the proper branch of the penitentiary.
- Sociologist-actuaries and their assistants are employed and assigned to the Joliet-Stateville, Pontiac, and Menard branches to study individual prisoners during their incarceration and create prediction reports for the parole board.

### **1937**

- Governor Henry Horner prohibits the parole board from entering an order to parole an individual until the Division of Supervision of Parolees has thoroughly investigated his or her sponsor, place of employment, and place of residence.

### **1941**

- United States Secretary of War granted authority to exercise discretion regarding the induction of ex-felons into the armed forces. Administrative measures later provided for prisoners eligible for release on parole to be released directly to the army.
- Paroled men begin enlisting in the Army, either from civilian paroles or directly from prison through mobile Selective Service draft boards.
- Prison and parole administration transferred to the Department of Public Safety from the Department of Public Welfare.

### **1943**

- Legislature amends the indeterminate sentence law, permitting courts to set the minimum and maximum term for each offender between statutory sentence limitations. This reduces the parole board's discretion.

### **1952**

- Terms of members of parole board staggered, extended to 4 years.

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## **Appendix II**

### **DONALD RASMUSSEN'S SURVEY QUESTIONS**

As reproduced from Donald Rasmussen, "Attitudes of Joliet-Stateville Prisoners Toward Parole," (MA thesis, University of Illinois, 1938), 41, in Joseph Edward Ragen Papers, Box 5 Folder 2, Abraham Lincoln Presidential Library.

- I. Questions for the "Essay Type Questionnaire" (answers appear on pages 34-57)
  - a. "The Conditions on Parole, Their Purposes, and the Achievement of the Purposes"
    - i. The following are rules in the Illinois parole contract. (1) Do not carry weapons; (2) Do not frequent disreputable establishments nor criminal 'hang-outs'; (3) Do not associate with another parolee or anyone who has a criminal record; (4) Do not write or visit any inmate of a penal or correctional institution; (5) Do not get drunk; (6) Do not change employment or your home address without permission; (7) Do not use drugs or narcotics; (8) Do not get married without first getting the permission of your parole agent or the Superintendent of Supervision; (9) Do not be away from home after 9:00 P.M. (10:30 in Chicago) without first getting permission from your agent or the Superintendent; (10) Do not drive or ride in an automobile for pleasure without getting permission from your agent or the Superintendent; (11) Do not leave the county to which you have been paroled without permission
      1. What do you think are the purposes of having special rules of the sort listed above for persons leaving prisons?
      2. Which of the above rules do you think should be included in the contract?
      3. Will the supervision under the above rules be worthwhile to you? Why or why not?
      4. Do you think it is worthwhile of other prisoners? To society?
      5. Are the purposes of parole which you have outlined reasonably achieved in actual practice? If they are not achieved, what are the reasons? (Include a consideration of parole agents.) (32)
  - b. Violations of Parole
    - i. How do you think the parole board should enforce the following rule concerning violations of the parole contract?  
"A violation of any of the above rules forfeits the parole contract on the part of the party paroled and renders him liable to be returned at once to the institution for such action as the Parole Board deems advisable."
    - ii. Do you think the Board is just and fair in the way that it enforces the rule at the present time? If not, why?
  - c. Preparation for Parole
    - i. Has there been anything in your prison experience which has prepared you to make good on parole? If so, what?
    - ii. Has there been anything to produce the opposite effect? If so, what?
    - iii. What should be done in prisons to prepare a man for better parole behavior?



- d. [Indeterminate versus Fixed Sentencing]
- i. By which of the following methods would you rather have your sentence determined? (1) an indeterminate sentence with the parole board setting the exact date of paroles [sic]; (2) an indeterminate sentence law with the trial judge setting maximum and minimum limits within which the Parole Board can set an exact date of release; (3) an indeterminate sentence law with the trial judge setting the exact sentence; or (4) a flat sentence determined by law?
  - ii. Why do you prefer the method which you chose over the others which are listed?
  - iii. Which method of determining sentences would tend to bring about the most justice? Why?
  - iv. What do you think the opinions of other prisoners are on the above three questions?

(Add anything else concerning parole which you may think valuable. The more you write the more your criticism will become valid.)” (33)

II. “Objective Type Questionnaire” (58)

Information on questionnaire sheet distributed to participating prisoners: “It is the belief of those conducting the survey that the opinions of newspapers tell a small part of the whole parole story—that in addition to newspaper ‘hot air,’ we need information concerning the attitudes of the public, the attitudes of public administration officials; and, especially, the attitudes of those men who have been on parole or who are going to be on parole. Although the viewpoint of the latter group is important, little is known about it. And only after students and the general public know and consider all of these aspects, will there be a sensible, a fair, and a just parole system.

To see all sides, we must depend upon the cooperation of persons willing to give honest criticism. On the following pages is a questionnaire to aid in expressing opinions toward parole.” (61)

- a. “Have you ever been on parole? Number of times \_\_\_\_
- b. For what type of offense are you now serving? \_\_\_\_ Amount of time served \_\_\_\_
- c. Board action on your case (number of continuances, amount of time before next appearance, etc.)” (61)

“The parole board is supposed to take into consideration the following items when it determines a sentence: (a) the offense; (b) previous prison terms; (c) the past life of the prisoner; (d) the probabilities of his ever again breaking the law; (e) the adequacy of his punishment; (f) his conduct while in prison; (g) the welfare of the prisoner

d. List the above facts in the order which you think the board gives them weight in determining a sentence. (For instance, if you think the board gives the most consideration to the adequacy of a prisoner’s punishment, put an e in the blank after No. 1.)

1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_ 5 \_\_\_\_ 6 \_\_\_\_ 7 \_\_\_\_

- e. List the factors in the order which you think the board should take them into consideration.  
1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_ 5 \_\_\_\_ 6 \_\_\_\_ 7 \_\_\_\_
- f. List any additional factors which you think the board takes into consideration.
- g. List any additional factors which you think the board should take into consideration.
- h. Granting that no group of men can give perfect justice, list the reasons for the injustice that the board might do.
- i. List some changes which you think would improve the decisions of the board.

Following are four methods of determining sentences: (a) an indeterminate sentence with the parole board setting the exact date of parole; (b) an indefinite sentence law with the trial judge setting the maximum and minimum limits within which the parole board can set an exact date of release; (c) an indefinite sentence law with the trial judge setting the exact sentence; (d) a flat sentence determined by law.

- j. List in order the methods as you prefer them for setting the date of your release. (designate your choice with the letters [sic] a, b, c, d)  
1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_
- k. List them in the order that you think a majority of other prisoners would prefer them for their cases.  
1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_
- l. List them according to their soundness in theory.  
1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_
- m. List them according to the justice you think they do or would do in actual practice.  
1 \_\_\_\_ 2 \_\_\_\_ 3 \_\_\_\_ 4 \_\_\_\_” (61-63)

“ADD ANY COMMENTS CONCERNING THE QUESTIONNAIRE ITSELF, THE PAROLE SYSTEM OR PREPARATION FOR PAROLE ON THE BACK OF THESE SHEETS.” (66)

### Appendix III

#### HANS W. MATTICK'S SURVEY QUESTIONS

Reproduced from Jimmy Grable, interview with Hans W. Mattick, January 19, 1951, Box 175, Folder 1 in Hans W. Mattick Papers 1944-1972, Chicago History Museum and Research Center.

- I. Screening Experience of Direct Inductees. Description of screening procedures and Subject's reactions.
  - a. Were you ever in military service prior to your induction in World War II? Give details of previous service.
  - b. What steps were taken in the institution to classify you for Army service?
  - c. How much time elapsed between the time you were classified 1A and the time you were actually drafted?
  - d. When were you due for parole consideration if you had not been accepted for service?
  - e. Were you given a parole hearing before being released for induction? Were any men denied parole by the board at this stage after having been accepted by the institutional draft board? How did these men account for such an action of the parole board?
  - f. What were the actual steps you went through prior to leaving the institution for the induction center?
  - g. When you knew you were going to be paroled to the Army, how did you feel about it?
    - i. Did you volunteer for service for any of the following reasons?
      1. Did you think that you could get an earlier parole than otherwise?
      2. Did you regard it as a way of escaping parole supervision and getting an early discharge from parole after six months?
      3. Why did you feel that you would prefer an Army parole to a parole to civilian life?
      4. Did you see it as a chance to serve your country?
      5. Did you have any feeling of 'paying off a debt to society' by entering the Army?
      6. Would you have preferred a job in civilian defense industry instead of Army service?
      7. Did you regard Army service as giving you a chance to start with a clean slate? (1-2)
- II. Post-Army and Post-War Adjustment (9)
  - a. Residential History
    - i. Did you return to your old neighborhood after release from service?
      1. With whom did you live?
      2. What changes had occurred in your absence? Were you able to renew old acquaintances? How did they treat you? Did they treat you differently than before your entry into the service?
      3. If you did not go back to your old neighborhood, why not? Did you feel that you could stay out of trouble better by living elsewhere?

4. What are the different places you have lived in since your release from service? What are the reasons for your moving? Did you experience any special difficulty with the problem of finding living quarters? What did you do?
- b. Marital and Family History
  - i. Has there been any change in your marital status since your return from service?
  - ii. Has there been any change in the status of your family since the war?
- c. Employment History
  - i. What types of jobs have you had since the war?
    1. Describe the jobs, duration and steadiness of employment.
    2. What have been your average earnings? Is this better than before the war?
    3. Do you feel satisfied with the work you are doing? Do you feel you have been given a fair chance to earn a living within the limits of your skills?
    4. Have you noticed any tendency on the part of employers to discriminate against you because of your past record in spite of your war service?
    5. If you received any other than honorable Army discharge has this affected your ability to get a job?
    6. What other kinds of problems have arisen with regard to employment that you have not already mentioned? How have you solved or handled these problems?
- d. Associations and leisure-time activities
  - i. Have you formed new associations in the post-war years?
    1. To what extent do you still associate with former civilian friends? Do any of them have a record that you know of?
    2. To what extent have you continued friendships which you made in the Army? (10)
    3. In what way do your present associations differ from your past contacts?
    4. Where did you meet your present friends? On the job? In the neighborhood? Etc.
    5. Has there been any indication of discrimination among your acquaintances as the result of your past record? To what extent has your Army service improped [sic] your ability to make friends?
  - ii. Have your leisure-time activities changed in the post-war period?
    1. How do you spend your spare time? Alone or with friends? What do you do?
    2. Have your habits as regards drinking, gambling, woman-chasing, and night-clubbing changed since your release from service as compared with before the war?

3. Have you joined any veterans' organizations or associations?
  - a. What organizations of veterans have you joined since the war?
  - b. Do you attend meetings?
  - c. Do you hold any special post or job in this organization?
  - d. How active have you been in the organization's affairs? Illustrate.

### III. Veterans Benefits

- a. Unemployment compensation? For how long?
- b. G.I. Bill, etc.
- c. Home or business loans?
- d. Medical facilities?
- e. Advice or counseling?
- f. Did you receive an Illinois bonus?
- g. Did you have money saved up when you left the Army? How much?
- h. Did you get money for accumulated leave from the Army? (11)
- i. How have you spent the money which you had on leaving the Army or which you secured as a result of having been in Army service?
- j. Do you feel you have benefited from the various provisions made by the Government for veterans' adjustment to civilian life? How do you feel these benefits increased or decreased your chances of making a good adjustment?

### IV. Post-war violational behavior

- a. Have you been in any trouble since you got out of the Army?
- b. Have you ever been arrested since the War? Explain.
- c. What dispositions have been made of your case in any trouble that has occurred since the war?
- d. Do you feel that the 'law' hounded you because of your past record in spite of your Army service? Or do you feel that you were given breaks because of your service?
  - i. Has your Army service actually helped you to escape your reputation as a man with a record?

### V. General Evaluations

- a. In general, do you feel that it has been an advantage for you to be a veteran? In what ways, not already mentioned, has this been true?
- b. Give us some of your ideas of the advantages or disadvantages [sic] of being paroled to the Army as compared to being paroled to civil life.
  - i. Possible advantages of Army life
    1. Did you like the idea of not having to worry about jobs, food, housing, clothes and money?
    2. Did you like the idea of knowing where everybody stood in regards to rank, job and income?
    3. Did you feel a sense of common interest with the other men in working toward winning the war and in being able to do your part?

4. Did you like the idea that everybody knew what his job was and was told what to do when a new situation came up?
  5. Did it seem that you could trust your friends in the Army more because you had to depend on each other when the going got rough? (12)
  6. Was it easier for you to hide your record in the Army than in civil life?
- ii. Possible advantages of civil life.
    1. Would you have preferred to take your chances with getting a job and making your own way in civil life?
    2. Would you rather make your own decisions about anything that affects you in any way?
    3. Do you think there is just as much cooperation and working together in civil life as there is in the Army?
    4. Do you feel you would have made a lot of money in the defense industry and would have been better off in civil life?
  - c. As a result of your observations and experiences do you think a parolee is better off doing a parole in the Army or in civil life? Why?
  - d. As a result of your experience as a parolee in the Armed service, what proposals would you make for changes in the system of paroling men to Army to make it easier for the men to adjust? (13)

Reproduced from Christopher Cawley, interview with Hans W. Mattick, January 12, 1951, Box 175, Folder 2 in Hans W. Mattick Papers 1944-1972, Chicago History Museum Research Center.

I. Parole and Screening Experiences for Indirect Inductees

- a. Were you ever in military service prior to your induction in World War II; give an account of your previous service.
- b. How long were you on parole before you were inducted? Were you drafted or did you volunteer for induction?
- c. Residential History.
  - i. Did you return to the same neighborhood on parole as you lived in before being sent to the institution? If not, why did you change neighborhoods? Did you cut off your former contacts in the old neighborhood? How many of your former friends entered the service?
  - ii. Describe the places you lived in while on parole? With whom did you live? What type of neighborhood was it?
  - iii. What kind of contacts did you have with your neighbors? Did you enter into community activities? What kind of activities? Did you feel that people avoided you because of your record?
- d. Marital and family life.
  - i. What was your marital status on leaving the institution on parole? If single, divorced, or widowed did you marry while on parole? Did you have any children?

- ii. What contacts did you have with other family members? Parents, brothers and sisters, etc? How did you get along with them? How did they react to the fact that you had a record? Was this ever a source of trouble?
  - iii. What persons were dependent on you for support during your parole period? Did your family ever accuse you of backing out on obligations to them? How did you feel about this? (1)
- e. Work history.
  - i. 'Out-job' on parole?
  - ii. Jobs while on parole.
  - iii. Reasons for changing jobs? Knowledge of trade? Institutional vocational training?
  - iv. Discrimination by employers because of record?
- f. Leisure-time pursuits and associations.
  - i. How spent? Differ from before institutionalized?
  - ii. New friends on parole?
  - iii. Keeping out of trouble with former associates, their activities.
  - iv. Trouble making new friends because of record?
  - v. Habits changed after institution?
  - vi. Problems while on parole?
    - 1. Quarrels with family?
    - 2. Problems created by record? (2)
    - 3. Attention paid to record during screening and classifying procedures?
    - 4. Most difficult problems of a parolee?

\*Interview forms appearing later in the files also include a question about the interviewee's relationship with his parole agent. These forms also prompt the interviewer to ask for the man's "evaluation of self in relation to others and experiences" while on parole. See Walker Divola, interview with Hans W. Mattick, March 7, 1951, Box 175, Folder 9 in Hans W. Mattick Papers 1944-1972, Chicago History Museum and Research Center.

**Appendix IV**  
**SCORING SHEETS FOR SALIENT FACTOR SCORE AND SEVERITY OF OFFENSE**  
**1977 REVISION\***

**APPENDIX I**  
**SALIENT FACTOR SCORE**

Register Number _____	Name _____	
Item A _____		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
No prior convictions (adult or juvenile)=3		
One prior conviction=2		
Two or three convictions=1		
Four or more prior convictions=0		
Item B _____		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
No prior commitments (adult or juvenile)=2		
One or two prior commitments=1		
Three or more prior commitments=0		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
Item C _____		
Age at behavior leading to first commitment (adult or juvenile):		
26 or older=2		
18-25=1		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
17 or younger=0		
*Item D _____		
Commitment offense did not involve auto theft or check(s) (forgery/larceny)=1		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
Commitment offense involved auto theft [X], or check(s) [Y], or both [Z]=0		
*Item E _____		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
Never had parole revoked or been committed for a new offense while on parole, and not a probation violator this time=1		
Has had parole revoked or been committed for a new offense while on parole [X], or is a probation violator this time [Y], or both [Z]=0		
Item F _____		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
No history of heroin or opiate dependence=1		
Otherwise=0		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
Item G _____		
Verified employment (or full-time school attendance) for a total of at least 6 months during the last 2 years in the community=1		
Otherwise=0		<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>
TOTAL SCORE _____		

NOTE: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as if a conviction, even if a conviction is not formally entered.

**\*NOTE TO EXAMINERS:**

If Item D and/or E is scored 0, place the appropriate letter (X, Y or Z) on the line to the right of the box.



**APPENDIX II—ADULT\* Guidelines for Decision-Making**  
*Revision effective June 1979*

*[Guidelines for Decision-Making, Customary Total Time to be Served before Release (including jail time)]*

OFFENSE CHARACTERISTICS: Severity of Offense Behavior (Examples)	OFFENDER CHARACTERISTICS: Parole Prognosis (Salient Factor Score)			
	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
<b>Low</b>				
Alcohol or Cigarette Law violations, including tax evasion (amount of tax evaded less than \$2,000)				
Gambling law violations (no managerial or proprietary interest)				
Illicit drugs, simple possession Marihuana/hashish, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil)]	=6 months	6-9 months	9-12 months	12-16 months
Property offenses (theft, income tax evasion, or simple possession of stolen property) less than \$2,000				
<b>LOW MODERATE</b>				
Counterfeit currency or other medium of exchange [(passing/possession) less than \$2,000]				
Drugs (other than specifically categorized), possession with intent to distribute/sale [very small scale (e.g., less than 200 doses)]				
Marihuana/hashish, possession with intent to distribute/sale [small scale (e.g., 10-49 lbs. of marihuana/1-4.9 lbs. of hashish/.01-.04 liters of hash oil)]	=8 months	8-12 months	12-16 months	16-22 months
Cocaine, possession with intent to distribute/sale [very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount)]				
Gambling law violation—managerial or proprietary interest in small scale operation (e.g., Sports books (estimated daily gross less than \$5,000); Horse books (estimated daily gross less than \$1,500); Numbers bankers (estimated daily gross less than \$750))				
Immigration law violations				
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than \$2,000				
<b>MODERATE</b>				
Automobile theft (3 cars or less involved and total value does not exceed \$19,999)				
Counterfeit currency or other medium of exchange [(passing/possession) \$2,000—\$19,999]				
Drugs (other than specifically categorized), possession with intent to distribute/sale [small scale (e.g., 200-999 doses)]				
Marihuana/hashish, possession with intent to distribute/sale [medium sale (e.g., 50-199 lbs. of marihuana/5-19.9 lbs. of hashish/.05-.19 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [small scale (e.g., 1.0-4.9 grams of 100% purity, or equivalent amount)]	10-14 months	14-18 months	18-24 months	24-32 months
Opiates, possession with intent to distribute/sale [evidence of opiate addiction and very small scale (e.g., less than 1.0 grams of 100% pure heroin, or equivalent amount)]				
Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun)				
Gambling law violations—managerial or proprietary interest in medium scale operations (e.g., Sports books (estimated daily gross \$5,000-\$15,000); Horse books (estimated daily gross \$1,500-\$4,000); Numbers bankers (estimated daily gross \$750-\$2,000))				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$2,000-\$19,999				
Smuggling/transporting of alien(s)				
<b>HIGH</b>				
Carnal knowledge				
Counterfeit currency or other medium of exchange [(passing/possession) \$20,000-\$100,000]				
Counterfeiting [manufacturing (amount of counterfeit currency or other medium of exchange involved not exceeding \$100,000)]				
Drugs (other than specifically listed), possession with intent to distribute/sale [medium scale (e.g., 1,000-19,999 doses)]				

	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
<b>HIGH (continued)</b>				
Marihuana/hashish, possession with intent to distribute/sale [large scale (e.g., 200-1,999 lbs. of marihuana/20-199 lbs. of hashish/.20-1.99 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [medium scale (e.g., 5-99 grams of 100% purity, or equivalent amount)]				
Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of 100% pure heroin, or equivalent amount) except as described in moderate]	14-20 months	20-26 months	26-34 months	34-44 months
Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons)				
Gambling law violations—managerial or proprietary interest in large scale operation (e.g., Sports books (estimated daily gross more than \$15,000); Horse books (estimated daily gross more than \$4,000); Numbers bankers (estimated daily gross more than \$2,000))				
Involuntary manslaughter (e.g., negligent homicide)				
Mann Act (no force—commercial purposes)				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$20,000-\$100,000				
Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act				
<b>VERY HIGH</b>				
Robbery (1 or 2 instances)				
Breaking and entering—armory with intent to steal weapons				
Breaking and entering/burglary—residence; or breaking and entering of other premises with hostile confrontation with victim				
Counterfeit currency or other medium of exchange [(passing/possession) —more than \$100,000 but not exceeding \$500,000]				
Drugs (other than specifically listed), possession with intent to distribute/sale [large scale (e.g., 20,000 or more doses) except as described in Greatest I]				
Marihuana/hashish, possession with intent to distribute/sale [very large scale (e.g., 2,000 lbs. or more of marihuana/200 lbs. or more of hashish/2 liters or more of hash oil)]	24-36 months	36-48 months	48-60 months	60-72 months
Cocaine, possession with intent to distribute/sale [large scale (e.g., 100 grams or more of 100% purity, or equivalent amount) except as described in Greatest I]				
Opiates, possession with intent to distribute/sale [medium scale or more (e.g., 5 grams or more of 100% pure heroin, or equivalent amount) except as described in Greatest I]				
Extortion [threat of physical harm (to person or property)]				
Explosives, possession/transportation				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) more than \$100,000 but not exceeding \$500,000				
<b>GREATEST I</b>				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention)				
Arson or explosive detonation [involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied) —no serious injury occurred]				
Drugs (other than specifically listed), possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 200,000 doses)]				
Cocaine, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram of 100% purity, or equivalent amount)]	40-52 months	52-64 months	64-78 months	78-100 months
Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 50 grams of 100% pure heroin, or equivalent amount)]				
Kidnaping [other than listed in Greatest II; limited duration; and no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving to a secluded location, and releasing victim unharmed)]				
Robbery (3 or 4 instances)				
Sex act—force (e.g., forcible rape or Mann Act (force))				
Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion)				

	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
<b>GREATEST II</b>				
<b>Murder</b>				
Aggravated felony—serious injury (e.g., robbery; injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim	52+ months	64+ months	78+ months	100+ months
Aircraft hijacking	Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.			
Espionage				
Kidnaping (for ransom or terrorism; as hostage; or harm to victim)				
Treason				

\* There is a separate guideline chart for Youth-Nara cases (not shown).

\*From Peter B. Hoffman and Sheldon Adelberg, "The Salient Factor Score: A Nontechnical Overview," *Federal Probation* 44, no. 1 (1980): Appendix I and II.

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Dissertation: "Getting Out: Parole, Politics, and Risk Assessment Before the Carceral State, 1895-1939"

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U.S. Social and Cultural History (Ronald G. Walters)

Capitalism, the U.S., and the World, 1850-present (Angus Burgin)

Gender and Urban History: 19<sup>th</sup> Century United States (Mary P. Ryan)

**University of California, Berkeley**, Bachelor of Arts in History, 2013

#### PUBLICATIONS

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"Making Good: On Parole in Early 20<sup>th</sup> Century Illinois," *Journal of the Gilded Age and Progressive Era* (June 2020)

#### AWARDS AND HONORS

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Graduate Student Essay Prize, Society for Historians of the Gilded Age and Progressive Era, 2018

*-Awarded annually for the best essay of journal article length written by a graduate student on a Gilded Age and/or Progressive Era topic*

Graduate Research Fellowship, Alexander Grass Humanities Institute, Johns Hopkins University, Spring 2020

*-Competitive, university-wide fellowship for research and writing*

Dean's Prize Fellowship, Johns Hopkins University, Fall 2019

*-Competitive, university-wide fellowship to reteach Dean's Teaching Fellowship course*

The Toby Ditz Prize, Department of History, Johns Hopkins University, May 7, 2019

*-Competitive prize awarded for outstanding teaching by a History Department graduate student as part of the Dean's Teaching Fellowship Program, Fall 2016 through Spring 2019*

Diamond Fellowship, Johns Hopkins University, Spring 2019

*-Competitive dissertation completion fellowship*

Herbert L. Poole Award, North Carolina Friends Historical Society, 2018

*-Awarded biannually for an outstanding paper on a topic in Southern Quaker history*

Young Scholars & Activists Fellowship, Working Class Studies Association, 2018

*-Awarded to 5 early career presenters at the 2018 Working Class Studies Conference*

Dean's Teaching Fellowship, Johns Hopkins University, Fall 2017

*-Competitive, university-wide fellowship to design and teach an undergraduate seminar course*

Labor and Working-Class History Association Graduate Student Travel Award, 2017

King V. Hostick Research Scholarship, Illinois State Historical Society, 2016

*-Award to support dissertation research on Illinois history*

Charlene Conrad Liebau Library Prize for Undergraduate Research, UC Berkeley, 2012

*-Recognizes excellence in course-based research projects*

## **CONFERENCES + INVITED PRESENTATIONS**

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### **Paper Presentations + Roundtables**

"Making Men and Protecting Women: Gender and Parole Supervision in Progressive Era Illinois," OAH Committee for the Status of Women in the Historical Profession sponsored panel on "The Carceral State, Gender, and History," Organization of American Historians Annual Meeting, April 6, 2019

"A Friend in Need is a Friend Indeed: Voluntary Organizations, Businesses, and Parole in Chicago, 1895-1917," National History Center-sponsored Roundtable on "Historical Perspectives on Public-Private Partnerships," American Historical Association Annual Meeting, January 4, 2019

"Private Enterprise for Public Order: Commercial Surveillance and Parole in Illinois," Seeing Like a Capitalist: Histories of Commercial Surveillance in America, The Hagley Museum and Library, November 9, 2018

"To Direct Him in That Which Is Good: Parolees and Work in Progressive Era Illinois," Panel entitled "From Jail to Job: Incarceration, Parole, and Employment," Working Class Studies Association 2018 Conference: Class at the Border, Stony Brook University, June 8, 2018

"Making Good: Prisoners, Parole, and Industry in Early 20<sup>th</sup> Century Illinois," Panel on "Rethinking Carceral Labor Struggles," Labor and Working-Class History Annual Conference: Scales of Struggle, University of Washington, June 23, 2017

"Witnessing Peace: The Civilian Public Service and the 'American Creed' in Wartime America," Southern American Studies Association Biennial Conference: Reconstruction 2015-1965-1865, Kennesaw State University, February 20, 2015

### **Invited Presentations**

"Making Good: On Parole in Early 20<sup>th</sup> Century Illinois," Boston Seminar in American Society and Culture, Massachusetts State Historical Society, March 26, 2019

"The Rise of Police Militarization: The Wars on Crime and Drugs, Warrior Cops, and the Criminalization of Black America," A Public Dialogue on Safety and Policing, Johns Hopkins University, April 26, 2018

### **Panels Chaired**

Chair, "Prisoner as Agent, Prisoner as Archive," Life Sentences: Seeing the Imprisoned, Emancipating the Humanities, Alexander Grass Humanities Institute, Johns Hopkins

University, November 10, 2017

Chair and Comment, “Race and Place in Digital History,” Society for American City and Regional Planning History Annual Conference, October 27, 2017

### **Conference Organizing Activity**

Conference Organizing Committee Member, Life Sentences: Seeing the Imprisoned, Emancipating the Humanities, Alexander Grass Humanities Institute, Johns Hopkins University, 2017

Student Conference Committee Member, Fifth Annual Racism, Immigration, and Citizenship Graduate Student Conference: A Time and a Place, Johns Hopkins University, December 3-4, 2015

### ***TEACHING***

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#### **Undergraduate Courses**

“Caged America: Policing, Confinement, and Criminality in the ‘Land of the Free,’” Instructor, Johns Hopkins University, Fall 2017, Fall 2019

“Criminality and Incarceration in U.S. History,” Instructor, Johns Hopkins University, Intersession 2016

#### **Teaching Assistantships**

“Expansion and the Early U.S. Republic,” Teaching Assistant for François Furstenberg, Goucher Prison Education Partnership, Goucher College, Spring 2010

“Undergraduate Seminar in History,” Teaching Assistant for Michael Kwass, Johns Hopkins University, Fall 2016—Spring 2017

“Making America: Politics and Society since the Great Depression,” Teaching Assistant for Angus Burgin, Johns Hopkins University, Spring 2015

“The History of Occidental Civilization: The Medieval World,” Teaching Assistant for Gabrielle Spiegel, Johns Hopkins University, Fall 2014

### ***SERVICE***

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Teaching Liaison, Johns Hopkins University Department of History and Center for Educational Resources, Baltimore, MD, September 2019—present

Organizer, “Gender and the Academy Graduate Student Workshop,” Johns Hopkins University, April 9, 2018

Co-Organizer, speaker series on “Engaged Scholarship: Learning Through Health Activism,” Center for Medical Humanities and Social Medicine, Johns Hopkins University, 2018

Committee Member, Committee on the Status of Women in the Historical Profession, Organization of American Historians, Summer 2018—Present

Coordinator, Modern American Seminar, Johns Hopkins University, Spring 2017—Present

Co-President, History Graduate Students Association, Johns Hopkins University, 2016—2018

History Department Graduate Representative, Johns Hopkins University Graduate Representative Organization, Fall 2015—Spring 2016

*EMPLOYMENT*

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Graduate Fellow in Acquisitions, Johns Hopkins University Press, Baltimore, MD, 2017—2018

Research Assistant for Dr. Louis Galambos, Johns Hopkins University, 2016—2017

Assistant Editor, The Emma Goldman Papers Project, Berkeley, CA, 2012—2013

*PROFESSIONAL AFFILIATIONS*

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American Historical Association; Organization of American Historians; Labor and Working-Class History Association; Working Class Studies Association